



Australian Government

IP Australia

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World Intellectual Property Organisation (WIPO)  
International Bureau  
34, chemin des Colombettes  
1211 Geneva 20  
Switzerland

Fax No: 0015 41 22 7335428 No. of pages: 17

Dear Sir/Madam

**NOTIFICATION OF REFUSAL OF PROTECTION BASED ON AN  
OPPOSITION**

**THIS REFUSAL IS ISSUED PURSUANT TO RULE 17(1) TO 17(3) OF THE  
COMMON REGULATIONS UNDER THE MADRID AGREEMENT  
CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS AND  
THE PROTOCOL RELATING TO THAT AGREEMENT**

International Registration number:	788522
For the mark:	STOLICHNAYA ELIT
In the name of:	Spirits Product International Intellectual Property B.V.
Opposition by:	FKP Sojuzplodoimport
Our ref:	932465

We advise that following receipt of a Notice of Opposition to the above Trade Mark on 2 June 2006, it is necessary to issue this formal refusal letter. This refusal covers all of the goods of the International Registration (**Rule 17(2)(vi)**).

Please find attached a copy of the Notice of Opposition including the grounds for opposition (**Rule 17(2)(iv)**).

We also attach:

- Copies of the trade mark(s) upon which the opposition is based, (if conflicting trade mark numbers have been provided in the notice of opposition) showing all relevant details (**Rule 17(2)(v)**, **Rule 17(3)**).
- A copy of subdivision 3 of Part 17A of the *Trade Marks Regulations 1995* (**Rule 17(2)(iv)**).

Subdivision 3 points to other relevant sections of the *Trade Marks Act 1995* (the Act) and the *Trade Marks Regulations 1995* (the Regulations). Both the Act and the Regulations may be accessed at the following website address:

[www.ipaustralia.gov.au/resources/legislation\\_index.shtml](http://www.ipaustralia.gov.au/resources/legislation_index.shtml)

The following information can also be accessed at  
[www.ipaustralia.gov.au/resources/forms\\_trademarks.shtml](http://www.ipaustralia.gov.au/resources/forms_trademarks.shtml):

- \* brochures about opposition matters giving an overview of opposition proceedings and representation at a hearing
- \* the *Trade Marks Office Manual of Practice and Procedure*.

The trade marks opposition process can be lengthy, as 3 months is nominally allowed for each of the 3 evidence stages - evidence in support of the opposition, evidence in answer and evidence in reply - and these periods may be extended. The due date for serving and filing evidence in answer to the opposition (unless an extension of time is requested) will be **3 months** from the date on which the opponent serves its evidence in support on the holder at its address for services in Australia (**Rule 17(2)(vii) or Rule 18(1)(e) as applicable**).

For answers to questions regarding any opposition matter please email:

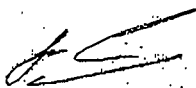
[assist@ipaustralia.gov.au](mailto:assist@ipaustralia.gov.au)

**ADDRESS FOR SERVICE IN AUSTRALIA: *important information for the holder of an opposed international registration designating Australia***

If the holder wishes to make written representations or to be heard in relation to the opposition, then the holder **must** notify the Registrar, in writing, of the holder's address for service in Australia. This must be done within 3 months after the notice of opposition is filed. (See subregulation 17A.33(3) of the Regulations.) Under certain circumstances, this time may be extended, under the provisions of section 224 of the Act.

Please also note that the opponent will **not** be required to serve a copy of its evidence in support of the opposition on the holder, if the holder has not provided an address for service in Australia within the time allowed (subregulation 17A.33(3)).

Yours faithfully



Jason Corsini  
Trade Marks and Designs Hearings  
IP Australia  
Direct dial: +61 2 6283 2916

15 June 2006



Australian Government  
IP Australia

Trade Marks Act 1995

TM00/003

Section 52, 96, 177, 188 & 224(6)  
Regulation 21.26; 21.8

Revised 4/04

## Notice Of Opposition

Under either:-

- Section 52 - to an advertised accepted trade mark for Registration
- Section 224 - to an advertised application to an extension of time for more than 3 months
- Section 96 - to an advertised application for removal of a trade mark registration for non-use

### Part 1

Filing Fee: \$250.00 per trade mark number

Trade Mark No (s).

932465 (IR 788522)

For Office Use Only

Correspondence Code - TNO

in the  
name of

Spirits Product International Intellectual Property BV

ACN /  
ARBN

### Details of person opposing

Name

FKP Sojuzplodoimport

ACN /  
ARBN

Address

Orlikov per. 1/11, 107139, Moscow

RUSSIAN FEDERATION

State

Postcode

Address for  
Service in  
Australia  
(if same as  
Address  
please print 'as  
above')

Aillens Arthur Robinson Patent & Trade Marks Attorneys (Attorney Code: B2)

Deutsche Bank Place, Cnr Hunter & Phillip Streets

State NSW

Postcode 2000

Phone  
No.

(02) 9230 4000

Facsimile  
No.

(02) 9230 5333

Your  
Reference

JROS:XDCS:205413571

Notice of Opposition is given under the Trade Marks Act 1995 and Regulations in respect of:

(please tick the  
appropriate box)

☒ registration of the above  
accepted trade mark -  
Section 52 (please  
complete Parts 2 & 5)

☐ application for extension of time for  
more than 3 months on the above  
trade mark - Section 224 (please  
complete Parts 3 & 5)

☐ application for removal of a  
trade mark for non-use -  
Section 96 (please  
complete Parts 4 & 5)

Advertised in the Australian Official Journal of Trade Marks of 2 March 2006 (if known)

Date

**In a section 52 opposition to registration you must state your ground(s) of opposition.** The grounds for a section 52 opposition to registration are specified in the Act and Regulations. A summary listing of these grounds is provided overleaf (Part 2). You must indicate which ground(s) you wish to rely on. For more information about the grounds see Part 8 under the heading Detailed Information about the Grounds of Opposition to the Registration of a Trade Mark.

Office Use Only

IP Australia SYD  
- 2 JUN 2006

ABN 38.113 072 755

PTO 1

## Part 2

### Ground(s) for Opposition to the Registration of Trade Mark

You must tick at least one box to show the ground(s) you wish to rely on in your opposition.

#### Grounds for Opposition

##### (Division 2 Part 5 of the Trade Marks Act 1995)

- ☒ Applicant not the owner of trade mark - s58
- ☒ Applicant not intending to use trade mark - s59 (please note this is not a ground for opposing a defensive Trade Mark)
- ☒ Trade mark similar to trade mark that has acquired a reputation in Australia - s60
- ☒ Trade mark containing or consisting of a false geographical indication - s61
- ☒ Application etc defective etc - s62

##### Division 2 (of Part 4) of the Act - Grounds for rejecting an application

- ☒ Trade mark containing etc. certain signs - s39
- ☒ Trade mark not distinguishing applicant's goods or services - s41 (please note this is not a ground for opposing a certification or defensive trade mark)
- ☒ Trade mark scandalous or its use contrary to law - s42
- ☒ Trade mark *inherently* likely to deceive or cause confusion - s43
- ☒ Identical etc trade marks - s44 (You should include the trade mark numbers of any application or registration on which this opposition is based 298660, 590304, 590305, 665684, 719317)
- ☐ Trade mark identical etc to trade mark protected under Madrid Protocol - reg 4.15A (You should include the trade mark numbers of any application or registration on which this opposition is based)

##### Additional ground(s) for opposing registration

- ☐ Certification trade mark not distinguishing certified goods or services - s177 (Part 16)
- ☐ Registration of a trade mark as a defensive trade mark - s187 (Part 17)

## Part 3

State your reasons for Opposition (s224.8/reg 21.26) to the grounds relied on in an application for an extension of time under s224 of the Trade Marks Act 1995 for more than three (3) months

State your reasons here as appropriate

If you require more space please attach as many A4 sheets of paper as required. Please sign and date the last sheet attached and write the name of the person signing.

## Part 4

State your reasons for Opposition (s96) to the grounds relied on by the Non Use Removal Applicant (s92) under the Trade Marks Act 1995

State your reasons here as appropriate

If you require more space please attach as many A4 sheets of paper as required. Please sign and date the last sheet attached and write the name of the person signing.

## Part 5 Notification of Service

(as required please tick the appropriate box/es)

A copy of this notice has been served <input type="checkbox"/> or is proposed to be served <input checked="" type="checkbox"/> on:		
<input checked="" type="checkbox"/> applicant for registration	<input type="checkbox"/> applicant for a s224 extension of time for more than 3 months	<input type="checkbox"/> applicant for removal of trade mark for non use
Name of Person	Spirits Product International Intellectual Property BV	Date of Service 2 June 2006
Place of Service	Mallesons Stephen Jaques Governor Phillip Tower, 1 Farrer Place, Sydney NSW 2000	
Service by (eg. AusPost)	Hand	
	Jacqueline Ruth O'Brien	2 June 2006
	Signature (optional)	Name (please print)
		Date

## Part 6 General Information

1. Please Note: ACN is an Australian company number, ARBN is an Australian registered body number. Australian business name numbers should not be entered in the space for ACN or ARBN.
2. A fee applies to the filing of this form - See Item 7 in Schedule 9 of the *Trade Mark Regulations*.
3. The application fee, with the completed form may be sent to IP Australia, PO Box 200, Woden, ACT 2606, Australia. IP Australia's hours of business are from 9am to 5pm, Monday to Friday (except public holidays).
4. You will find more information about opposition matters in the *Trade Marks Office Manual of Practice and Procedure* (Parts 46 & 55) located on IP Australia's website at [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au). Accessible by selecting Forms and Publications in either the Trade Marks or Resources drop down menus and following the links.
5. Please note, however, that IP Australia does not offer legal, financial or business advice or financial assistance in respect to the opposition and hearing process. If you feel you need legal advice, a registered Patent and Trade Mark Attorney, or solicitor who is experienced in trade mark matters would be able to advise you.

### If calling/contacting IP Australia from within Australia

- General inquiries to your nearest IP Australia State Office - 1300 65 1010 (cost of a local call)
- For more information about filing a notice of opposition to the registration of an accepted trade mark; opposition to an application for removal of a trade mark for non-use or an opposition to an extension of time for more than three months or trade mark matters in general you may contact our Customer Support Centre on 02 6283 2999 (tel) or 02 6283 7999 (fax).

### If calling/contacting IP Australia from outside Australia

For inquiries relating to IP Australia's on-line services or more information about filing a notice of opposition to the registration of an accepted trade mark; opposition to an application for removal of a trade mark for non-use or an opposition to an extension of time for more than three months or trade mark matters in general you may contact our Customer Support Centre on +61 2 6283 2999 (tel) or +61 2 6283 7999 (fax).

### Email/Internet contact

- Alternatively for further assistance you may email our Customer Support Centre at [assist@ipaustralia.gov.au](mailto:assist@ipaustralia.gov.au)
- On-line services at our website address [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au) may also provide you with the information you require.

### Payment Options

For information about current methods of payment please see the *Payment Options form (G/01/068)* at [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au). Select 'Forms and Publications' in either the Trade Marks or Resources drop down menus and follow the links to the sub-heading 'Finance'.

### Information and Advice

To access IP Australia's Information and Advice Policy document select the drop down menu 'About IP Australia' on our home page at [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au). Select 'What is IP Australia?' and click on either option 'What we do' or 'What we cannot help you with' to access the document. This document makes clear the type of advice IP Australia does and does not provide to customers.

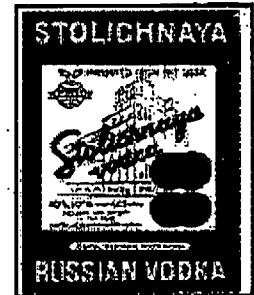
Part 7 of this form provides general information about filing a Notice of Opposition.

Part 8 of this form provides specific information about the grounds of opposition to the registration of an accepted trade mark application.

## Trade Mark Details

### Trade Mark : 298660

**Word:** STOLICHNAYA VODKA  
**Image:** BUILDING, SKYSCRAPER MEDALLIONS GLOBE, MERIDIANS  
WITH FOREIGN CHARACTERS, CYRILIC HELMET, WINGED  
**Lodgement Date:** 16-JUL-1976  
**Registered From:** 16-JUL-1976  
**Renewal Due:** 16-JUL-2007  
**Class/es:** 33  
**Status:** Registered/Protected (Court action Pending)  
**Kind:** n/a  
**Type:** Composite  
**Court Action Pending:** Y



**Owner/s:** **Spirits International NV**  
World Trade Center  
TM II 19 Willemstad  
Curacao  
NETHERLANDS ANTILLES

**Address for Service:** **Mallesons Stephen Jaques**  
Level 60, Governor Phillip Tower  
1 Farrer Place  
Sydney  
2000, NSW  
AUSTRALIA

### Goods & Services

**Class:** 33 Russian vodka

**Endorsements:** The word STOLICHNAYA means in English METROPOLITAN. The letters appearing in the mark are the 17th, 15th and 9th letters respectively of the Russian alphabet. Registration of this trade mark shall give no right to the exclusive use of the Russian letters of their English equivalents S.P.I.\* The preceding endorsement(s) were recorded prior to commencement of the Trade Marks Act 1995.\*

### Claimed Interest Details:

**Name:** **Federal Treasury Enterprise (FKP) Sojuzplodoimport**  
107139, Orlikov per. 1/11  
Moscow  
RUSSIAN FEDERATION  
**Federal Public Unitary Enterprise External Economic Union  
Sojuzplodoimport (FGUP VO)**

107139, Orlikov per. 1/11  
Moscow  
RUSSIAN FEDERATION

**Address for Service: Allens Arthur Robinson**

Patent & Trademark Attorneys  
The Chifley Tower  
2 Chifley Square  
SYDNEY  
2000, NSW  
AUSTRALIA

Date  
Captured: 22-SEP-2005

Nature of  
interest: The interest in this trade mark claimed by Federal Treasury Enterprise (FKP)  
Sojuzplodoimport and Federal Public Unitary Enterprise External Economic Union  
Sojuzlodoimport (FGUP VO) in their cross-claim in Federal Court Proceedings No  
NSD 1816 of 2004

**Indexing Details - Word Constituents**

STOLICHNAYA

**Indexing Details - Image Constituents**

BUILDING	GLOBE, MERIDIANS
HELMET, WINGED	MEDALLION+
SKYSCRAPER	WINGED

**Indexing Comments**

LABEL

This mark was registered under the Trade Marks Act 1955 in Part A

**Trade Mark Details****Trade Mark : 590304**

**Word:** STOLI  
**Image:**  
**Lodgement Date:** 12-NOV-1992  
**Registered From:** 12-NOV-1992  
**Acceptance Advertised:** 18-FEB-1993  
**Registration Advertised:** 24-MAR-1994  
**Sealing Date:** 04-MAR-1994  
**Renewal Due:** 12-NOV-2009  
**Class/es:** 33  
**Status:** Registered/Protected(Court action Pending)  
**Kind:** n/a  
**Type:** Word  
**Court Action Pending:** Y

**Owner/s:** **Spirits International NV**  
World Trade Center  
TM II 19 Willemstad  
Curacao  
NETHERLANDS ANTILLES

**Address for Service: Mallesons Stephen Jaques**  
Level 60, Governor Phillip Tower  
1 Farrer Place  
Sydney  
2000, NSW  
AUSTRALIA

**Goods & Services**

**Class: 33** Alcoholic beverages including vodka

**Claimed Interest Details:**

**Name:** **Federal Treasury Enterprise (FKP) Sojuzplodoimport**  
107139, Orlikov per. 1/11  
Moscow  
RUSSIAN FEDERATION  
**Federal Public Unitary Enterprise External Economic Union**  
**Sojuzplodoimport (FGUP VO)**  
107139, Orlikov per. 1/11  
Moscow  
RUSSIAN FEDERATION

**Address for Service:** **Allens Arthur Robinson**



Patent & Trademark Attorneys  
The Chifley Tower  
2 Chifley Square  
SYDNEY  
2000, NSW  
AUSTRALIA

Date  
Captured: 22-SEP-2005

Nature of  
Interest: The interest in this trade mark claimed by Federal Treasury Enterprise (FKP)  
Sojuzplodoimport and Federal Public Unitary Enterprise External Economic Union  
Sojuzlodoimport (FGUP VO) in their cross-claim in Federal Court Proceedings No  
NSD 1816 of 2004

**Indexing Details - Word Constituents**

STOLI

**Indexing Details - Image Constituents**

This mark was registered under the Trade Marks Act 1955 in Part A

## Trade Mark Details

### Trade Mark : 590305

**Word:** STOLICHNAYA  
**Image:**  
**Lodgement Date:** 12-NOV-1992  
**Registered From:** 12-NOV-1992  
**Acceptance Advertised:** 18-FEB-1993  
**Registration Advertised:** 24-MAR-1994  
**Sealing Date:** 04-MAR-1994  
**Renewal Due:** 12-NOV-2009  
**Class/es:** 33  
**Status:** Registered/Protected(Court action Pending)  
**Kind:** n/a  
**Type:** Word  
**Court Action Pending:** Y

**Owner/s:** **Spirits International NV**  
World Trade Center  
TM II 19 Willemstad  
Curacao  
NETHERLANDS ANTILLES

**Address for Service: Mallesons Stephen Jaques**  
Level 60, Governor Phillip Tower  
1 Farrer Place  
Sydney  
2000,NSW  
AUSTRALIA

### Goods & Services

**Class: 33** Alcoholic beverages including vodka

### Claimed Interest Details:

**Name:** **Federal Treasury Enterprise (FKP) Sojuzplodoimport**  
107139, Orlikov per. 1/11  
Moscow  
RUSSIAN FEDERATION  
**Federal Public Unitary Enterprise External Economic Union**  
**Sojuzplodoimport (FGUP VO)**  
107139, Orlikov per. 1/11  
Moscow  
RUSSIAN FEDERATION

**Address for Service:** **Allens Arthur Robinson**

Patent & Trademark Attorneys  
The Chifley Tower  
2 Chifley Square  
SYDNEY  
2000,NSW  
AUSTRALIA

Date  
Captured: 22-SEP-2005

Nature of  
interest: The interest in this trade mark claimed by Federal Treasury Enterprise (FKP)  
Sojuzplodoimport and Federal Public Unitary Enterprise External Economic Union  
Sojuzlodoimport (FGUP VO) In their cross-claim in Federal Court Proceedings No  
NSD 1816 of 2004

**Indexing Details - Word Constituents**  
STOLICHNAYA

**Indexing Details - Image Constituents**

This mark was registered under the Trade Marks Act 1955 in Part A

## Trade Mark Details

### Trade Mark : 665684

**Word:** STOLICHNAYA STOLICHNAYA OHRANJ ORANGE  
FLAVORED RUSSIAN VODKA

**Image:** ORANGES, LEAVES & ORANGE BLOSSOM IN RECT;3  
CYRILLIC CHARS IN RIBBON ACROSS  
GLOBE, MERIDIANS

**Lodgement Date:** 04-JUL-1995

**Registered From:** 04-JUL-1995

**Acceptance Advertised:** 04-DEC-1997

**Registration Advertised:** 09-APR-1998

**Sealing Date:** 20-MAR-1998

**Renewal Due:** 04-JUL-2015

**Class/es:** 33

**Status:** Registered/Protected (Court action Pending)

**Kind:** n/a

**Type:** Composite

**Court Action Pending:** Y



**Owner/s:** **Spirits International NV**  
World Trade Center  
TM II 19 Willemstad  
Curacao  
NETHERLANDS ANTILLES

**Address for Service: Mallesons Stephen Jaques**  
Level 60, Governor Phillip Tower  
1 Farrer Place  
Sydney  
2000, NSW  
AUSTRALIA

### Goods & Services

**Class: 33** Orange flavoured Russian vodka

**Endorsements:** The applicant has advised that the translation of the Russian word STOLICHNAYA appearing in the trade mark is SOMETHING OR SOMEBODY THAT COMES FROM THE CAPITAL and has a meaning such as METROPOLITAN.\*

### Claimed Interest Details:

**Name:** **Federal Treasury Enterprise (FKP) Sojuzplodoimport**

107139, Orlikov per. 1/11

Moscow

RUSSIAN FEDERATION

**Federal Public Unitary Enterprise External Economic Union****Sojuzplodoimport (FGUP VO)**

107139, Orlikov per. 1/11

Moscow

RUSSIAN FEDERATION

**Address for Service: Allens Arthur Robinson**

Patent &amp; Trademark Attorneys

The Chifley Tower

2 Chifley Square

SYDNEY

2000, NSW

AUSTRALIA

**Date Captured:** 22-SEP-2005**Nature of Interest:** The interest in this trade mark claimed by Federal Treasury Enterprise (FKP) Sojuzplodoimport and Federal Public Unitary Enterprise External Economic Union Sojuzplodoimport (FGUP VO) in their cross-claim in Federal Court Proceedings No NSD 1816 of 2004**Indexing Details - Word Constituents**

FLAVORED	OHRANJ
ORANGE	RUSSIAN
STOLICHNAYA	VODKA

**Indexing Details - Image Constituents**

BLOSSOM	CHARACTER, CYRILLIC+
DIVIDED	FLOWER
FOUR-SIDED	FRUIT+
GLOBE, MERIDIANS	LEAF+
ORANGE+	RECTANGLE
RIBBON	SCROLL
THREE	

## Trade Mark Details

### Trade Mark : 719317

**Word:** STOLICHNAYA OHRANJ  
**Image:**  
**Lodgement Date:** 10-OCT-1996  
**Registered From:** 10-OCT-1996  
**Acceptance Advertised:** 16-JUL-1998  
**Registration Advertised:** 19-NOV-1998  
**Sealing Date:** 30-OCT-1998  
**Renewal Due:** 10-OCT-2006  
**Class/es:** 33  
**Status:** Registered/Protected(Court action Pending)  
**Kind:** n/a  
**Type:** Word  
**Court Action Pending:** Y

**Owner/s:** **Spirits International NV**  
World Trade Center  
TM II 19 Willemstad  
Curacao  
NETHERLANDS ANTILLES

**Address for Service: Mallesons Stephen Jaques**  
Level 60, Governor Phillip Tower  
1 Farrer Place  
Sydney  
2000, NSW  
AUSTRALIA

### Goods & Services

**Class: 33** Orange flavoured vodka

**Endorsements:** The applicant has advised that the translation of the RUSSIAN words word appearing in the trade mark is METROPOLITAN and ORANGE.

### Claimed Interest Details:

**Name:** **Federal Treasury Enterprise (FKP) Sojuzplodoimport**  
107139, Orlikov per. 1/11  
Moscow  
RUSSIAN FEDERATION  
**Federal Public Unitary Enterprise External Economic Union**  
**Sojuzplodoimport (FGUP VO)**  
107139, Orlikov per. 1/11  
Moscow  
RUSSIAN FEDERATION

**Address for Service: Allens Arthur Robinson**

Patent & Trademark Attorneys  
The Chifley Tower  
2 Chifley Square  
SYDNEY  
2000, NSW  
AUSTRALIA

Date Captured: 22-SEP-2005

Nature of interest: The interest in this trade mark claimed by Federal Treasury Enterprise (FKP) Sojuzplodoimport and Federal Public Unitary Enterprise External Economic Union Sojuzlodoimport (FGUP VO) in their cross-claim in Federal Court Proceedings No NSD 1816 of 2004

**Indexing Details - Word Constituents**  
OHRANJ STOLICHNAYA

**Indexing Details - Image Constituents**

- (4) The extension of protection may also be opposed on the grounds that:
- (a) a document filed in support of the IRDA was amended contrary to the Act; or
  - (b) the Registrar accepted the IRDA on the basis of evidence provided, or a representation made, by the holder that was false in a material particular.

*Note* Section 66 of the Act makes provision in relation to amendment of documents filed with the Registrar.

#### **17A.32 Circumstances in which opposition may proceed in name of a person other than the person who filed the notice**

Section 53 of the Act applies in respect of a notice of opposition filed under this Subdivision.

#### **17A.33 Opposition proceedings**

- (1) The Registrar must give to the opponent and to the holder of the IRDA an opportunity of being heard on the opposition.
- (2) Regulations 5.7 to 5.17 apply, with the necessary modifications, for the purposes of the opposition.
- (3) Despite subregulations (1) and (2), a requirement to serve a document on the holder, or to give the holder an opportunity to make written representations or to be heard, does not apply unless, within 3 months after the notice of opposition is filed, the holder has notified the Registrar, in writing, of the holder's address for service in Australia.

#### **17A.34 Decision on opposition**

- (1) Unless the opposition proceedings are discontinued or dismissed, the Registrar must decide:
  - (a) to refuse protection in respect of all of the goods or services listed in the IRDA; or
  - (b) to extend protection in respect of some or all of the goods or services listed in the IRDA (with or without conditions or limitations);having regard to the extent (if any) to which any ground on which the IRDA was opposed has been established.
- (2) Unless subregulation 17A.35 (2) applies, the Registrar must tell the International Bureau of his or her decision as soon as practicable after the end of the appeal period mentioned in subregulation 17A.36 (1).

#### **17A.35 Appeal**

- (1) Section 56 of the Act applies in relation to the Registrar's decision on the opposition as if a reference in that section:
  - (a) to an applicant were a reference to the holder of an IRDA; and
  - (b) to a decision under section 55 of the Act were a reference to a decision under regulation 17A.34.
- (2) If an appeal is made, the Registrar must tell the International Bureau of the decision on the appeal as soon as practicable after that decision is made.



## TRADE MARKS REGULATIONS 1995

### 17A.29 Opposition

- (1) If the Registrar has notified in the *Official Journal* the acceptance of an IRDA, a person may oppose the extension of protection in Australia to the trade mark that is the subject of the IRDA by filing a notice of opposition.
- (2) The notice of opposition must:
  - (a) be in an approved form; and
  - (b) be filed with the Registrar:
    - (i) within 3 months from the day on which the acceptance of the IRDA is notified in the *Official Journal*; or
    - (ii) if an extension of time is granted under regulation 17A.30, within the extended time allowed.
- (3) The Registrar must notify the International Bureau of the opposition in accordance with rule 16 or 17, as applicable, of the Common Regulations.

### 17A.30 Extension of time for filing

- (1) A person may apply to the Registrar for an extension of time in which to file a notice of opposition.
- (2) Regulations 5.2, 5.3 and 5.4 (except subregulations 5.4 (2) and (3)) apply, with the necessary modifications, to an application for extension of time under subregulation (1).
- (3) Subsection 52 (5) of the Act applies to an application for extension of time under subregulation (1).

### 17A.31 Grounds for opposing IRDA

- (1) The extension of protection may be opposed on any of the grounds on which an IRDA may be rejected under Subdivision 2, except the ground that the trade mark cannot be represented graphically.
- (2) The extension of protection may also be opposed on any of the grounds set out in sections 58 to 61 of the Act, as affected by subregulation (3).
- (3) Sections 58 to 61 apply in relation to an IRDA as if:
  - (a) a reference in those sections:
    - (i) to an application for the registration of a trade mark were a reference to the IRDA; and
    - (ii) to an applicant were a reference to the holder of the IRDA; and
    - (iii) to the registration of a trade mark were a reference to the extension of protection in Australia to the trade mark that is the subject of the IRDA; and
  - (b) the reference in paragraph 60 (a) to the priority date for the registration of the trade mark were a reference to the priority date for the trade mark that is the subject of the IRDA.