A GUIDE TO TRADE MARK PROTECTION IN SOUTH AFRICA

IN TERMS OF THE TRADE MARKS ACT NO. 194 OF 1993 | SOUTH AFRICA



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ADAMS & ADAMS | AFRICA'S LEADING INTELLECTUAL PROPERTY LAW FIRM

Adams & Adams is a multi-disciplinary intellectual property law firm with a proven track record in the protection, enforcement, assessment and commercialisation of intellectual property rights – trade marks, patents, copyright and registered designs.

With a network spanning 54 African jurisdictions through 25 offices, our attorneys offer clients a full range of legal services relating to the acquisition, enforcement and commercialisation of intellectual property rights – including the counsel and handling of transactions in cases involving trade marks, patents, copyright, registered designs, licensing, and data security. Our professionals also litigate these issues successfully in courts across the continent.

Intellectual property, although intangible, is a valuable asset on the balance sheet of any business - in many cases exceeding in actual marketable value the fixed property of the business. Our focus is on helping our clients maximise the value from their IP assets using a range of strategies. We have assisted organisations of all sizes, from start-up to multinational, local and international, across all industries.



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A ROUGH IDEA | AN INTRODUCTION TO INTELLECTUAL PROPERTY AND TRADE MARKS

Against the background of intellectual property, trade marks are unquestionably the most recognisable expression of these rights. A trade mark is a distinctive sign that identifies certain goods or services produced or provided by an individual or a company. Its origin dates back to ancient times when craftsmen reproduced their signatures, or "marks", on their artistic works or products of a functional or practical nature.

Over the years, the recognition and protection of marks has evolved into today's system of trade mark registration. The system helps consumers to identify and purchase a product or service based on whether its specific characteristics and quality – as indicated by its unique trade mark – meet their needs.

Trade mark protection ensures that the owners of marks have the exclusive right to use them to identify goods or services, or to authorise others to use them in return for payment. The period of protection varies, but a trade mark can be renewed indefinitely upon payment of the corresponding renewal fees. Trade mark protection is legally enforced by courts that, in most systems, have the authority to stop trade mark infringement.

In a larger sense, trade marks promote initiative and enterprise worldwide by rewarding their owners with recognition and financial profit. Trade mark protection also hinders the efforts of unfair competitors, such as counterfeiters, to use similar distinctive signs to market inferior or different products or services. The system enables people with skill and enterprise to produce and market goods and services in the fairest possible conditions, thereby facilitating trade and rewarding innovation.

> "Intellectual property refers to creations of the mind: inventions; literary and artistic works; and symbols, names and images used in commerce. Intellectual property rights are like any other property right. They allow creators, or owners, of patents, trade marks or copyrighted works to benefit from their own work or investment in a creation. The importance of intellectual property was first recognised in the Paris Convention for the Protection of Industrial Property (1883) and the Berne Convention for the Protection of Literary and Artistic Works (1886). Both treaties are administered by the World Intellectual Property Organization (WIPO)."
>
> *- WIPO*



FIRST IMPRESSIONS | DEFINING TRADE MARKS

A trade mark, generally, is a mark intended to be used by a person or business in relation to goods or services for the purpose of distinguishing those goods or services from the same kind of goods or services connected in the course of trade with any other person.

Definition of Terms

A 'mark' is any sign capable of being represented graphically, including a device, name, signature, word, letter, numeral, shape, configuration, pattern, ornamentation, colour or container for goods, or any combination thereof.

A 'device' is any visual representation or illustration capable of being reproduced upon a surface, whether by printing, embossing or by any other means.

A 'collective mark' is a mark capable of distinguishing in the course of trade, goods or services of persons who are members of an association from goods or services of persons who are not members thereof. Geographical names and other indications of geographical origin may be registered as collective trade marks.

A 'certification mark' is a mark capable of distinguishing in the course of trade the goods or services certified by any person in respect of kind, quality, quantity, intended purpose, value, geographical origin or any other characteristics of the goods or services, or the mode or time of production of the goods or of rendering of the services, as the case may be, from goods or services which are not so certified. A certification mark may not be registered in the name of a person who carries on a trade in the goods or services for which protection is sought.

CONSIDERATIONS | THE RIGHT TO USE A TRADE MARK



Registration of a trade mark does not necessarily confer an absolute right to use the mark. Prior rights, recognised by law, to a relevant mark may have been secured in ways other than by registration.

Thus, it is possible that the owner of some confusingly similar trade mark may be in a position to successfully object to registration or use of the selected mark if they have acquired common law rights by virtue of use of the mark in this country in relation to the same or similar goods or services; or their mark has acquired an international reputation and has become entitled to protection under the Paris Convention as a mark well-known in South Africa, even though it may never have been used here.

Prior rights may also have been acquired by another person, carrying on business as an enterprise dealing in the same or associated goods or offering the same or similar services, under a business name (even an unregistered trading style) bearing a confusing resemblance to the proposed trade mark. That person may have grounds for opposing the registration or restraining the use of the trade mark.



It should be noted that, in terms of section 79 of the Consumer Protection Act no. 68 of 2008 (CPA), all business names will have to be registered as business names, unless it is the name of the person or company conducting the business or the person has been actively conducting business under that business for a period prescribed by the CPA. This provision will only come into force on a date to be determined by the Minister of Trade & Industry. Trade mark owners intending to launch a newly adopted mark commercially, should consider the following preliminary steps:

- Have a search conducted at the Trade Marks Office in Pretoria in order to determine whether there are any marks on record encompassing the same or similar goods or services, and which are identical to or resemble the mark chosen.
- Have a search conducted at the Companies Office in Pretoria in order to determine whether there are any business names or companies or close corporations with a name similar to the trade mark proposed to be registered.
- Make appropriate investigations in trade circles or on the internet in order to establish whether anyone is using (with or without the benefit of registration) the same or a confusingly similar mark (whether as a trade mark, business name or trading style, as part of the name of a company or close corporation or otherwise) in a business concerned with goods or services the same as or similar to the goods or services which he / she intends to produce or offer under the selected trade mark.

Apart from possible errors in the official indices, a search is not necessarily decisive as to availability, since it does not, as already pointed out, disclose conflicting marks which are already being used (but have not been registered) by other persons who, by virtue of such prior user, may have a preferent right to registration, nor does it disclose applications in countries which are members of the Paris Convention, which gives the applicant a priority right (deemed earlier filing date) for applications filed in other convention countries within six months after such earlier filing. This aspect is dealt with later in this document.

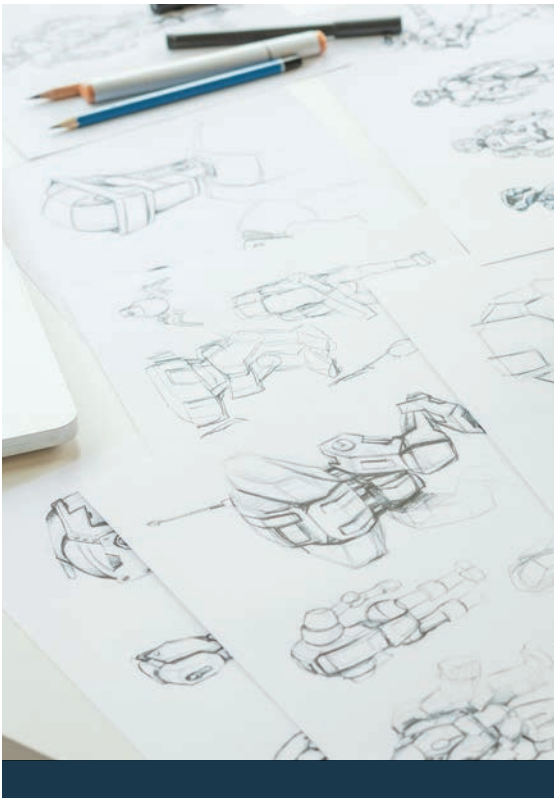


THE BENEFITS OF TRADE MARK REGISTRATION

While common law rights can be acquired through use of a trade mark, the advantages of registration are significant:

1. Registration provides an easy remedy (the action for infringement) whereby third parties may be restrained from using the same or closely similar marks.
2. Registration acts as a deterrent to potential infringers.
3. The trade mark owner, by being in a position to offer the statutory protection of a registration, is more likely to attract licensees.
4. Registration allows a trade mark owner or licensee to use the words 'Registered Trade Mark' or an abbreviation thereof or the international recognised symbol ® in conjunction with the trade mark.
5. Registration affords a prima facie (but not an absolute) right to use the trade mark concerned.

REQUIREMENTS FOR A TRADE MARK TO BE REGISTRABLE



In order to be registrable, a trade mark must be capable of distinguishing the goods or services of one person from the goods or services of another person. A trade mark will be considered capable of distinguishing if, at the date of application, it is inherently capable of distinguishing or if it has become capable of distinguishing by reason of its prior use.

Any trade mark which is proved distinctive will probably be registrable, provided that it is not expressly excluded from registration in terms of the Act. Trade marks which are specifically excluded from registration in terms of the Act include:

- A mark which does not constitute a trade mark, or is not capable of distinguishing, or which merely designates specific characteristics of the goods or services, or which has become customary in the current language or established trade practices.
- A mark in respect of which the applicant has no bona fide claim to proprietorship, or in respect of which an application has been made in bad faith.

  A mark which the applicant has no bona fide intention to use as a trade mark, either himself or through a licensee.
- A mark which consists exclusively of the shape, configuration, colour or pattern of goods where such shape, configuration, colour or pattern is necessary to obtain a specific technical result, or results from the nature of the goods themselves. This is a total prohibition and no amount of use will qualify such a mark for registration.
- A mark which constitutes or includes a reproduction, imitation or translation of a 'well-known' foreign trade mark for similar goods or services, where such use is likely to cause deception or confusion.
- A mark which is identical or similar to a trade mark which is already registered and which is well-known in the Republic, if the use of the mark sought to be registered would be



Definition of Terms

'Applicant.' Any person with a bona fide intent to use a mark as a trade mark, either himself or through any person permitted by him to use the mark (ie a licensee), may file an application for its registration.

'Classification of trade marks.' Goods and services are classified into classes for purposes of registration (34 classes for goods; 11 classes for services). A separate application must be filed in each class in which protection is desired.

'Limitation to colour.' A trade mark may be limited, in whole or in part, to a particular colour or colours. If a trade mark is registered without limitation to colour, it is deemed to be registered for all colours.

likely to dilute, take unfair advantage of, or be detrimental to the distinctive character or repute of the well-known trade mark. 'Dilution' is the gradual whittling away or diminution of distinctiveness, commercial magnetism or selling power of a trade mark.

- A mark which is inherently deceptive, contrary to law, or contra bonos mores, or the use of which would be likely to deceive or cause confusion or offend any class of persons.
- A mark which is identical or similar to an earlier registration or application in respect of the same or similar goods or services, where use of both marks would be likely to deceive or cause confusion (this objection can be overcome by obtaining consent to the registration from the proprietor of the prior mark).
- A mark which, as a result of the manner in which it will be used, would be likely to cause deception or confusion.
- A mark which consists of or contains the national flag or armorial bearings, or a state emblem or official sign of the Republic of South Africa or certain other countries and international organisations.

APPLICATION FOR REGISTRATION

In terms of the Trade Mark Regulations, goods and services are classified in accordance with Schedule 3 to the Regulations. It further provides that, in interpreting the schedule, reference is to be had to the 6th Edition of the International Classification of Goods and Services for the purposes of the registration of marks under the Nice Agreement of 15 June 1957 (as revised). However, should the 6th Edition be amended, the Registrar must publish the amendments in the Patent Journal, amend Schedule 3 and publish such amendment.

An amendment has taken place and following the required publication as referred to above, the 11th Edition of the Nice Classification came into effect on 1 January 2017 in South Africa and Schedule 3 to the Regulations has been amended. In practice, the Registrar uses the 11th Edition for classification purposes.

The class headings in terms of the 11th Edition are listed in the Schedule at the end of this document.

The class headings merely set the outer parameters of each class. Literally thousands of different items are included in each class, but are not set out in the class heading in order to prevent it becoming too long. As a result, the fact that the specific goods or services of interest to an applicant does not specifically appear in any of the class headings, does not mean that it is not covered by a trade mark registration filed for the relevant class heading.

PROCEDURE OF TRADE MARK REGISTRATION

All applications undergo examination by the Trade Marks Office to determine inherent registrability as well as possible conflict with prior registrations or applications. After examination, the Trade Marks Office will either accept the application or preliminarily refuse it or indicate the conditions subject to which it may be accepted. If there is a preliminary refusal or conditional acceptance, an opportunity is afforded the applicant to make representations to the Registrar to overcome whatever objections have been raised or to deal with the application otherwise as circumstances may dictate.

At present the registration procedure takes 30 months (or more) from the date of filing.

Once a trade mark application has been accepted, it is advertised in the Patent Journal. Opposition proceedings against a trade mark application are very similar to motion proceedings in the High Court. In the absence of objections by third parties within three months of the advertisement date, the application will proceed to grant and a certificate of registration will be issued.





Definition of Terms

'Opposition to registration.'
Opposition proceedings against a trade mark application may be lodged by any interested person within three months after the advertisement of the acceptance of the application. The opposition period may be extended by the Registrar, for example to allow time for negotiation between the parties. The grounds on which an application may be opposed generally include the grounds on which a mark will be excluded from registration, as set out above.

Opposition proceedings are initiated by filing a notice of opposition and are very similar to motion proceedings in the High Court. In fact, in terms of Section 59(2), the Registrar has a discretion to refer proceedings to court and in practice, has done so where matters have been contested. In other (unopposed) matters still heard by the Registrar, the Registrar (or the person appointed in terms of section 6(3)) has judicial powers equivalent to those of a judge of the High Court.

'Removal of a trade mark.'
Application may be made by any interested person for the removal of a registered trade mark on any one or more of the grounds for removal contemplated in the Act. These include:

- Non-insertion in or omission from the register of any entry.
- Entry wrongly made in or wrongly remaining on the register.
- Any error or defect in any entry in the register.
- That the trade mark is excluded from registration in any one or more of the circumstances as set out above.
- That the use of the trade mark failed to comply with a condition for registration.
- There was no bona fide intention to use the mark at the time of the application for registration and there has in fact been no bona fide use of the mark in relation to the relevant goods or services up to a date three months prior to the application for removal.
- There was no bona fide use of the mark in relation to the relevant goods or services for a continuous period of five years or longer between the date of registration of the mark and a date three months prior to the application for removal.
- The proprietor of the trade mark registration has died (in the case of a natural person), or has been dissolved (in the case of a body corporate) not less than two years prior to the application for removal and no application has been made for the recordal of an assignment.

The provision for removal on the basis of non-use will not apply if the non-use was due to special circumstances in the trade and not to an intention to abandon the mark.

A trade mark that is well-known in terms of the Paris Convention, may also not be removed due only to non-use or a lack of *bona fide* intention to use.



TRADE MARK INFRINGEMENT

There are three types of trade mark infringement:

1

The unauthorised use in the course of trade in relation to the same goods or services, of an identical mark or a mark so nearly resembling it as to be likely to deceive or cause confusion.

2

The unauthorised use in the course of trade of an identical or similar mark, in relation to goods or services which are so similar that there exists the likelihood of deception or confusion.

3

The unauthorised use in the course of trade in relation to any goods or services of an identical or similar mark, if the registered trade mark is well-known in the Republic and the use of the other mark would be likely to take unfair advantage of, or be detrimental to, the distinctive character or repute of the registered trade mark.

When trade mark infringement occurs, there are a number of options available to the trade mark owner:

- An interdict can be issued.
- An order for the removal of the offending trade mark or, alternatively, delivery-up of the infringing goods.
- Damages.
- In lieu of damages, at the option of the proprietor, a reasonable royalty which would have been payable by a licensee for the use of the trade mark concerned.

The following are situations in which the use of a mark does not amount to infringement:

- The bona fide use by a person of his own or his predecessor's name or the name of his or his predecessor's place of business.
- The use by any person of any bona fide description or indication of the kind, quality, quantity, intended purpose, value, geographical origin or other characteristics of his goods or services, or the mode or time of production of the goods or rendering of the services.
- The bona fide use of a trade mark in relation to goods or services where such use is reasonable to indicate the intended purpose of such goods, including spare parts and accessories or the rendering of services.
- The importation into or distribution, sale or offering for sale in the Republic of goods to which the trade mark has been applied by or with the consent of the proprietor.
- The bona fide use of any utilitarian feature embodied in a container, shape, configuration, colour or pattern which is registered as a trade mark.
- The use of a trade mark where such use is within the scope of a limitation entered in the register against the registered trade mark.
- The use of any identical, or confusingly or deceptively similar, trade mark which itself is registered.



PROTECTION OF WELL-KNOWN TRADE MARKS

Protection is also available to the proprietor of a well-known trade mark, whether or not such person carries on business or has any goodwill in South Africa, against the unauthorised use of a mark which constitutes a reproduction, imitation or translation of the well-known trade mark, where:

- The goods or services are identical or similar to the goods or services in respect of which the trade mark is well-known.
- The use is likely to cause deception or confusion.

A 'well-known' foreign trade mark is one which is well-known in South Africa as being the mark of a person entitled to protection under the Paris Convention (whether or not such a person carries on business or has any goodwill in South Africa).

In determining whether a trade mark is well-known in South Africa, due regard is given to the knowledge of the trade mark in the relevant sector of the public, including knowledge which has been obtained as a result of the promotion or advertisement of the trade mark. The required degree of awareness of the trade mark has been held to mean knowledge by a substantial number of persons in the relevant sector of the public.





Definition of Terms

'Assignment'
Assignment of a registered trade mark may take place with or without the goodwill of the business, and must be recorded in the register by the assignee.

'Licensing/registered users.'
Licensing and registered users of trade marks are recognised and may be recorded in the register.

'Amendments.'
The Trade Marks Act provides for the amendment and/or correction of a trade mark application or registration, and for the amendment and/or correction of the register of trade marks.

DURATION AND RENEWAL OF A REGISTERED TRADE MARK

A trade mark is registered for a period of ten years, calculated from the date of the original application, and the registration may be renewed in perpetuity for periods of ten years on application in the prescribed manner and on payment of the renewal fees.

Provision is made in the Regulations for late payment of the renewal fee (upon payment of a fine) and for the restoration of a lapsed trade mark in cases where the Registrar is satisfied that it is just to do so.

A pending trade mark application may be amended, by application to the Registrar or the court, to correct any error in the application, including changes to the representation of the mark and changes to the specification of goods and services.

A registered trade mark may be amended by application to the Registrar to 'add to or alter the trade mark in any manner not substantially affecting the identity' of such trade mark. The application for amendment is advertised in the Patent Journal, and third parties may oppose the amendment. The degree of change or alteration which will be allowed is for the Registrar to decide.

Amendment of the register may be made on application to the Registrar for correcting an error in, or altering, the name or address of the registered proprietor; cancelling the registration; deleting any goods or services; or entering a disclaimer relating to the trade mark.

In the case of amendments or alterations likely to invoke adversarial reaction, application may be made to the court.



INTERNATIONAL ARRANGEMENTS

Any person who has applied for registration of a trade mark in a 'convention country' enjoys a so-called priority right. In terms of this right, the applicant is entitled, in priority to other applicants, to registration of the same trade mark in any other convention country, provided an application is made in such other convention country within six months from the application date in the first convention country. Any such registration in another convention country gets the same date as the date of application in the first convention country.

South Africa is a convention country. A country becomes a convention country by acceding to the international Paris Convention.

OFFENCES

It is an offence to:

- Represent that an unregistered trade mark is a registered trade mark.
- Represent that a part of a trade mark not separately registered, is a registered trade mark.
- Represent that a registered trade mark is registered for goods or services for which it is not in fact registered.
- Make false statements to the Registrar or any officer in performance of their duties under the Act for the purpose of deceiving such person or procuring or influencing the performance of anything or any matter under the Act.
- Make a false entry in the register.
- Make a writing falsely purporting to be an extract from the register.
- Produce or tender such false extract as evidence in any proceedings, knowing it to be false.

A person who is found guilty of any of the above offences is liable to a fine or to imprisonment for a period not exceeding 12 months.

tion under the Paris Convention (whether or not such a person carries on business or has any goodwill in South Africa).

In determining whether a trade mark is well-known in South Africa, due regard is given to the knowledge of the trade mark in the relevant sector of the public, including knowledge which has been obtained as a result of the promotion or advertisement of the trade mark. The required degree of awareness of the trade mark has been held to mean knowledge by a substantial number of persons in the relevant sector of the public.



SALTICRAX

ADAMS & ADAMS | OUR TRADE MARK SERVICES

'Intellectual property' is a generic term referring collectively to intangible products such as patents, industrial designs, trade marks and brand names, copyright, trade secrets and know-how, etc. - all of which are products created through the innovative or creative efforts of people.

It is important for people in business to be informed of the different kinds of intellectual property, to recognise when intellectual property has been created within the ambit of their business activities, and to see to it that the necessary steps are taken timeously to ensure that this property is protected.

Legal protection is necessary to prevent others from making unauthorised use of the intellectual property to the detriment of the true owner, and to ensure that the true owner will enjoy the full commercial benefit of his/her creative efforts.

The Adams & Adams trade mark attorneys deal with all matters relating to trade marks, copyright, passing off, unlawful competition, copyright and trade mark infringement, advertising law and related aspects of corporate law and protection.

Below is a non-exhaustive list of the services offered by the attorneys at Adams & Adams:

- Assessment for registrability and searches
- Local and international filing
- Trade mark infringement proceedings
- Trade mark renewals, cancellations and amendments
- Domain name registrations
- Defensive registrations
- Licence and royalty agreements
- Intellectual property valuations and due diligence
- Deeds of security and hypothecation
- Recordal of licences
- Assignment and transfer of ownership
- Passing-off matters
- Portfolio management

In addition, we boast various professional teams in parallel to our trade mark rights protection services who assist with matters involving anti-counterfeiting, ambush marketing, exchange control, franchising, R&D tax deductions and advertising law services.

CLASSIFICATION OF GOODS & SERVICES

GOODS:

CLASS 1: Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire-extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

CLASS 2: Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colourants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.

CLASS 3: Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.

CLASS 4: Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles and wicks for lighting.

CLASS 5: Pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; dietetic food and substances adapted for medical or veterinary use, food for babies; dietary supplements for humans and animals; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

CLASS 6: Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores.

CLASS 7: Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs; automatic vending machines.

CLASS 8: Hand tools and implements (hand-operated); cutlery; side arms; razors.

CLASS 9: Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers, computer software; fire-extinguishing apparatus.

CLASS 10: Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopaedic articles; suture materials.

CLASS 11: Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

CLASS 12: Vehicles; apparatus for locomotion by land, air or water.

CLASS 13: Firearms; ammunition and projectiles; explosives; fireworks.

CLASS 14: Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and chronometric instruments.

CLASS 15: Musical instruments.

CLASS 16: Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks.

CLASS 17: Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.

CLASS 18: Leather and imitations of leather,

and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas and parasols; walking sticks; whips, harness and saddlery.

CLASS 19: Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.

CLASS 20: Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.

CLASS 21: Household or kitchen utensils and containers; combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.

CLASS 22: Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.

CLASS 23: Yarns and threads, for textile use.

CLASS 24: Textiles and textile goods, not included in other classes; bed covers; table covers.

CLASS 25: Clothing, footwear, headgear.

CLASS 26: Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.

CLASS 27: Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).

CLASS 28: Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.

CLASS 29: Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs, milk and milk products; edible oils and fats.

CLASS 30: Coffee, tea, cocoa and artificial coffee; rice; tapioca and sago; flour and preparations made from cereals, bread, pastry and confectionery; ices; sugar, honey, treacle; yeast, baking-powder; salt; mustard; vinegar, sauces (condiments); spices; ice.

CLASS 31: Grains and agricultural, horticultural and forestry products not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt.

CLASS 32: Beers; mineral and aerated waters and other non-alcoholic beverages; fruit beverages and fruit juices; syrups and other preparations for making beverages.

CLASS 33: Alcoholic beverages (except beers).

CLASS 34: Tobacco; smokers' articles; matches.

SERVICES:

CLASS 35: Advertising; business management; business administration; office functions. Offering for sale and the sale of goods in the retail and wholesale-trade in South Africa.

CLASS 36: Insurance; financial affairs; monetary affairs; real estate affairs.

CLASS 37: Building construction; repair; installation services.

CLASS 38: Telecommunications.

CLASS 39: Transport; packaging and storage of goods; travel arrangement.

CLASS 40: Treatment of materials.

CLASS 41: Education; providing of training; entertainment; sporting and cultural activities.

CLASS 42: Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software.

CLASS 43: Services for providing food and drink; temporary accommodation.

CLASS 44: Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.

CLASS 45: Legal services; security services for the protection of property and individuals; personal and social services rendered by others to meet the needs of individuals.

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