



MEDIA RELEASE

Bob Baldwin, MP

Parliamentary Secretary to the
Minister for Industry, Tourism and Resources

23rd August 2006

DECISION ON UGG TRADE MARK NON-USE ACTION

The Parliamentary Secretary to the Minister for Industry, Tourism and Resources, Bob Baldwin, clarified today that trade mark applicants are able to incorporate the word Ugh or Ugg in trade mark applications if they wish but should take care not to infringe other's rights.

Mr Baldwin sought to clarify the possibility of the word being included in trade mark applications following a decision by IP Australia to allow a mark consisting of the stylised form of the words UGG Australia and an image of the sun to remain on the Australian Trade Mark Register.

Mr Baldwin, explained, "This decision means that Australians are still able to use the word UGG or UGH in the course of business and trade if the way the words are used does not impinge on the rights of another trader. The owner of a registered mark has the right to prevent any one seeking to trade with a mark that is deceptively similar in appearance to the one they have registered."

Luda Productions Pty Ltd, sought to have a trade mark removed from the trade mark register due to non-use. IP Australia, however, found that the owner of the trade mark, Deckers Outdoor Corporation, had demonstrated use of the trade mark within Australia during the relevant period. The decision means that the trade mark will remain on the register.

It is important to recognise that the trade mark in question (number 785466) is a composite mark. This means that trade mark protection only applies for the way the mark looks or appears in its entirety, rather than the words used within it. The trade mark at the centre of this decision consists of a combination of the words UGG, Australia and the image of an oval sun with flames under the words.



Other registered trade marks containing the word UGG also exist on the Australian Trade Mark Register. For example Busy'B'Enterprises Pty Ltd has registered a trade mark that is a composite mark with the word UGG:



Mr Baldwin continued: "This case shows that without clear and balanced trade mark rights and processes, it would be difficult to provide incentives for industry to develop quality goods and services".

IP Australia is the Australian Government agency responsible for administering registered intellectual property rights including trade marks in Australia. More information on trade marks can be found on IP Australia's website www.ipaustralia.gov.au