



Australian  
Competition &  
Consumer  
Commission

**Final Assessment of Certification Trade Mark (CTM) Applications  
1057895 and 1002678 by Green Tick Technologies Limited.**

The Australian Competition and Consumer Commission (the ACCC), in accordance with the requirements of the *Trade Marks Act 1995*, has completed its Final Assessment of the above Certification Trade Mark (CTM) applications.

The ACCC's Final Assessment is that it is satisfied that:

- (a) the approved certifiers are competent to certify the goods in respect of which the CTMs are to be registered;
- (b) the rules governing the use of the CTMs would not be to the detriment of the public;  
and
- (c) the rules governing the use of the CTMs are satisfactory having regard to the principles relating to restrictive trade practices set out in Part IV of the *Trade Practices Act 1974* (the Act); the principles relating to unconscionable conduct set out in Part IVA of the Act; and the principles relating to unfair practices, product safety and product information set out in Part V of the Act.

Signed.......... (Commissioner)

Date.....26 APRIL 2006.....

IP Australia  
03 MAY 2006  
P&S

**IN THE MATTER** of the Trade Marks Act 1953  
**IN THE MATTER** of an application for registration under section 47 of the Trade  
Marks Act 1953 of the **GREEN TICK** trade mark and devices.  
**APPLICANT** **GREEN TICK TECHNOLOGIES LIMITED**

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**REGULATIONS GOVERNING USE OF TRADE MARK  
DATED 16 FEBRUARY 2004**

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Certified copy  
pursuant to section 175(2)(b)  
of the *Trade Marks Act 1995*

*[Handwritten Signature]* 26-04-06  
.....  
Commissioner Date

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**IP Australia**  
**03 MAY 2006**  
DSS

## REGULATIONS GOVERNING USE OF TRADE MARK

### BACKGROUND

- A. GTT is the owner of the Trade Mark.
- B. GTT may authorise a third party to use the Trade Mark, under Licence Agreement, on and in connection with the manufacture, distribution and marketing of products which comply with and have been produced in accordance with the Standards.
- C. Section 48 of the Trade Marks Act 1953 requires GTT to deposit at the Intellectual Property Office of New Zealand regulations approved by the Commissioner of Trade Marks governing the use of the Trade Mark.
- D. The Regulations set out below govern use of the Trade Mark.

### 1. INTERPRETATION

#### 1.1 In these Regulations unless the context otherwise requires:

- (a) **"Authorised User"** means a person entitled by Regulation 3.1 to use the Trade Mark.
- (b) **"Approved Product"** means a product for which approval has been given in accordance with the Regulations and in relation to which a Licence Agreement has been executed.
- (c) **"Dispute"** means a dispute arising between GTT and a Producer in relation to any refusal by GTT to authorise use of the Trade Mark.
- (d) **"GTT"** means Green Tick Technologies Limited.

- (e) **"Independent Expert"** means a person appointed under Regulation 4.2.
- (f) **"Licence Agreement"** means a Licence Agreement between GTT and an Authorised User in the form attached as Schedule 3 to these Regulations.
- (g) **"Licence Fee"** means the fees payable under the Licence Agreement.
- (h) **"Producer"** means a third party who has applied for authorisation to use the Trade Mark in accordance with Regulation 2.1(a).
- (i) **"Regulations"** mean these regulations.
- (j) **"Reviewer"** means a person or authority as referred to at Regulation 2.2.
- (k) **"Standards"** means GTT's Certification Standards for Approved Products, attached as Schedule 2 to these Regulations.
- (l) **"Testing Authority"** means a person or entity engaged by a Reviewer or GTT to carry out tests in accordance with Regulation 2.1.
- (m) **"Trade Mark"** means GTT's "Green Tick" certification trade mark and devices, as detailed at Schedule 1 to these Regulations.

1.2 Clause headings are inserted for convenience only and shall be ignored in interpreting the terms of these Regulations.

1.3 Words importing the singular shall include the plural and vice versa and the masculine shall include the feminine and neuter and vice versa if the context so permits.

**2. AUTHORISATION OF USE OF THE TRADE MARK**

2.1 In order for products to be authorised to have the Trade Mark used on them, or in connection with their manufacture, distribution and marketing, thereby becoming Approved Products:

(a) A Producer may apply to GTT for authorisation to use the Trade Mark on or in connection with one or more of its products. A diagram illustrating this process appears in Schedule 4 to these Regulations.

(b) The product, including the production methods for it, must undergo a review by a Reviewer. The Reviewer must assess whether the product conforms to the performance criteria set out in the Standards. A Reviewer may engage a Testing Authority to carry out such tests as may be necessary.

(c) The Reviewer must then report to GTT, and make a recommendation as to whether the Producer be authorised to use the "Green Tick" to certify the product as complying with the Standards. Copies of the review will be sent to GTT and the Producer.

(d) GTT must then conduct its own review and decide whether or not to accept the Reviewer's recommendation. Where necessary GTT may engage a Testing Authority. GTT will give written reasons for its decision to decline or to grant certification and to authorise use of the Trade Mark in respect of the product.

2.2 A Reviewer must be an independent person or authority approved by GTT. Reviewers must:

(a) meet the qualification requirements of the applicable ISO Guidelines for Environmental and Health and Safety Auditors; and

- (b) operate according to the applicable ISO Standards for Conformity Assessment; and
  - (c) be themselves accredited by an accreditation body operating to the appropriate ISO Standards for peer assessment; or
  - (d) have qualifications and experience in environmental, health and safety, genetic modification, or organic production auditing acceptable to the national qualifications authority;
  - (e) A Testing Authority engaged under regulation 2.1 must also have received independent certification of its services, or have qualifications and experience acceptable to the national qualifications authority.
- 2.4 All costs of review and certification including Reviewers' and Testing Authorities' fees and disbursements must be paid by the Producer, in advance, if required.
- 2.5 Only GTT may certify use of the Trade Mark in relation to any Producer and product.
- 2.6 If GTT grants authorisation and certifies use of the Trade Mark in accordance with Regulation 2.1(d) above then, in order for the Producer to be able to use the Trade Mark, it must enter into a Licence Agreement.

**3. USE OF THE TRADE MARKS**

- 3.1 On executing the Licence Agreement, paying the Licence Fee and all costs of review and certification, a Producer to whom certification has been granted by GTT in accordance with Regulation 2.1(d) becomes an Authorised User of the Trade Mark in respect of the Approved Product.
- 3.2 The terms of use of the Trade Mark are set out in the Licence Agreement.
- 3.3 GTT will maintain a current register of all Authorised Users. This register may be inspected at GTT's registered office or on its website.
- 3.4 GTT may not trade in goods of the kind certified under the Regulations.
- 3.5 The Trademark may not be used for restrictive trade practices as defined under the Commerce Act 1986.

**4. DISPUTES**

- 4.1 In respect of any Dispute, the following disputes resolution procedure shall apply:
- (a) The Producer shall, within one month of receiving notice of GTT's refusal to authorise use of the Trade Mark, write to GTT setting out the grounds for its objection to that decision;
  - (b) GTT shall, within one month of receiving the objection, provide a detailed written response to the Producer;
  - (c) The Parties shall then meet and attempt to resolve the Dispute amicably.

(d) If resolution is not reached, the Parties shall appoint an Independent Expert to consider the Dispute and decide whether or not GTT's decision should be upheld.

4.2 The Independent Expert will be jointly appointed by both Parties. If the Parties cannot agree on who should be appointed either party may apply to the President or Vice President of the Arbitrators and Mediators Institute of New Zealand to appoint an Independent Expert. Before making any such appointment the President or Vice President (as the case may be) must consider any written submissions by the Parties as to who should be appointed as the Independent Expert.

4.3 The determination of the Independent Expert shall be as final and binding on both Parties.

4.4 The costs and disbursements of the Independent Expert shall be paid by both Parties in equal shares. Otherwise, the Parties shall bear their own costs of the Dispute.

## 5. GENERAL

5.1 These Regulations may be altered by the Commissioner of Trade Marks under section 51 of the Trade Marks Act on the application of GTT.



**SCHEDULE 1**

**PART 1**

**"GREEN TICK SUSTAINABLE" TRADE MARK**



**PART 2**

**"GREEN TICK GE-FREE" REPRESENTATION**



**PART 3**

**"GREEN TICK ORGANIC" REPRESENTATION**



## SCHEDULE 2

## GTT CERTIFICATION STANDARDS FOR APPROVED PRODUCTS

## A: "GREEN TICK SUSTAINABLE"

## 1. Safety Standards

<b>1.1 Safety Accident Record</b>	Minimise on-site incidents	No major harm accidents, incidents, injuries recorded in past 12 months;
<b>1.2 Safety Staff Health and Safety</b>	Protect staff health and safety	No substantiated staff complaints about working conditions in past 12 months;
<b>1.3 Safety Supplier Health and Safety</b>	Protect supplier health and safety	No substantiated supplier issues with on-site working conditions in past 12 months;
<b>1.4 Safety Customer Health and Safety</b>	Protect customer health and safety	No substantiated customer complaints about health or safety issues (including product quality) in past 12 months;
<b>1.5 Safety Management System</b>	Health and Safety Management System (H&S)	OSH-compliant health and safety management system in place;
<b>1.6 Safety Minimising Risk</b>	Monitoring risk areas and minimising risk	Annual reviews of potential risk areas and mitigation taken;
<b>1.7 Safety Performance Records</b>	Performance monitoring	Less than five minor non-conformances per 100 workers to H&S management system reported in past 12 months;
<b>1.8 Safety Legal Compliance</b>	Legal compliance and enforcement	i) 100% compliance with all legal requirements; ii) No successful enforcement actions by government health and safety agencies in past 12 months.

## Schedule 2 – Certification Standards continued...

## A: "GREEN TICK SUSTAINABLE" continued

## 2. Sustainability Standards

2.1 Environmental Product Origin	Identify product origin	All product content identified by country of origin;
2.2 Environmental Product Quality	High product quality	Product meets all quality standards of industry or government food authority;
2.3 Environmental Product Labeling	Accurate product labeling	Labeling meets required legal standards;
2.4 Environmental Resource Use	Maximise resource use efficiency	i) Programme in place to maximise resource use efficiency with defined performance targets; ii) Resources used at lowest practical for site/s with current technology per sales unit; iii) Programme in place to identify and use recycled materials where appropriate; iv) Where resource use is extractive, relevant industry or government sustainability standards met;
2.5 Environmental Chemical Use	Minimise chemical use	Chemical residues comply with industry or government standard;
2.6 Environmental Energy Use	Minimise energy use	i) Programme in place to minimise energy use with defined performance targets; ii) Energy resources used at lowest practical for site/s with current technology per sales unit;
2.7 Environmental Nuisance Effects	Minimise adverse effects on neighbours, eg. noise, dust, spray drift	No substantiated complaints from neighbours about nuisances in past 12 months;

## Schedule 2 – Certification Standards continued...

### A: "GREEN TICK SUSTAINABLE" continued

#### 2. Sustainability Standards continued

2.8 Environmental Contaminant Discharges	Minimise contaminant discharges to air, land, freshwaters and sea	i) Programme in place to minimise contaminant discharges with defined performance targets; ii) Contaminant discharges at lowest practical for site/s with current technology per sales unit;
2.9 Environmental Waste Management	Waste minimisation, dispose of wastes correctly	i) Waste minimization and recycling programme in place with defined performance targets; ii) Wastes reduced, re-used, recycled, or properly disposed of to authorised facilities;
2.10 Environmental Management System	Environmental Management System (EMS)	Environmental management programme in place with defined performance targets consistent with industry or government standards;
2.11 Environmental Management Performance	Performance monitoring	Less than five minor non-conformances per 100 workers with EMS reported in past 12 months;
2.12 Environmental Legal Compliance	Legal compliance and enforcement	i) 100% legal compliance with any environmental consents and applicable plan rules; ii) No successful enforcement actions by government environmental agencies in past 12 months.

### B: "GREEN TICK GE-FREE"

In order to be certified "Green Tick GE-Free" the Approved Product must:

- (a) Meet the standards noted above for "Green Tick Sustainable"; and,
- (b) Be independently tested and confirmed as containing no genetically-engineered content or substances by a Testing Authority.

### C: "GREEN TICK ORGANIC"

In order to be certified "Green Tick Organic" the Approved Product must:

- (a) Meet the standards noted above for "Green Tick Sustainable"; and,
- (b) Hold a current organic certification from a Testing Authority approved by the International Federation of Organic Agriculture Movements (IFOAM).

**D: DEFINITIONS**

In these Standards:

- (a) "contaminant" has the meaning as defined in Section 2 of the Resource Management Act 1991, Government of New Zealand.
- (b) "environment" has the meaning as defined in Section 2 of the Resource Management Act 1991, Government of New Zealand.
- (c) "genetic engineering" has the same meaning as defined in the Report of the Royal Commission on Genetic Modification (Government of New Zealand 2001).
- (d) "major harm" has the meaning as defined in Section 2 of the Health and Safety in Employment Act 1992, Government of New Zealand.
- (d) "sustainable management" has the meaning as defined in Section 5(2) of the Resource Management Act 1991, Government of New Zealand.

**SCHEDULE 3**

**LICENCE AGREEMENT**

SCHEDULE 4: APPROVAL PROCESS

