



NOTIFICATION DE REFUS D' OFFICE

Notifiée au Bureau International de l' Organisation Mondiale de la Propriété Intellectuelle (OMPI)
Conformément à la Règle 17 (2) et la Règle 17 (5)(e) du Règlement d' Exécution commun

NOTE: Ladite notification du refus d' office est considérée comme une déclaration conformément à la Règle 18ter (2) (ii) ou (3) du Règlement d' exécution commun. Une requête en réexamen peut être présentée à la Chambre d' Examen et de Décision en matière de Marques, par une agence ou un avocat qualifié Chinois, dans un délai de 15 jours à compter de la réception de ladite notification.

- I. Administration qui prononce le refus :
Office des Marques
Administration d' Etat de l' Industrie et du Commerce
1, Chama Nanjie, Xichengqu, Tel: 8610-63219000
CN-100055 BEIJING
République Populaire de Chine
- II. Date à laquelle le refus est prononcé 2016/10/24
- III. Notre numéro de Référence : GJZCG776034BHF01
- IV. Enregistrement international No. : 776034
- V. Date de notification en Chine 2016/03/10
- VI. Enregistrement national de base No. : 857766
Dépôt national de base No. :
- VII. Refus pour la totalité des produits et/ou des services.
- VIII. Motifs de Refus :
marques antérieures nationales et/ou internationales.(voir Item X)
Le signe déposé est similaire à la/aux marque(s) antérieure(s) .
Les produits et/ou services cités à la rubrique VII sont similaires aux produits et/ou services énumérés dans le dépôt ou l' enregistrement antérieur.
- IX. Articles de la Loi chinoise applicable en la matière :
Article(s) : (Voir les extraits des lois et des règlements)
La Loi sur Les Marques Article 30
- X. Informations concernant la/les marque(s) antérieure(s):



Nom de la marque :

RIO

Date de dépôt :

2007/11/27

Numéro de dépôt :

6403561

Date de priorité :

Date d' enregistrement :

2010/10/21

Numéro d' enregistrement :

Non-Madrid 6403561

Nom du titulaire :

THE DEZAC GROUP LIMITED

Adresse du titulaire :

DEZAC HOUSE, MONTPELLIER STREET, CHELTENHAM, GLOUCESTERSHIRE, GL50 1SS,
UNITED KINGDOM

Produits/services : classe 3

个人用清洁制剂；个人用抛光制剂；个人用擦净剂；个人用研磨剂；肥皂；香料；香精油；美容剂；化妆品；化妆品清洗剂；香水；科隆香水；花露水；非药制浴油；非药制浴盐；减肥用非药制化妆品；皮肤保湿剂；护肤剂；脱毛膏；染发剂；洗发剂；护发素；头发加亮制剂；喷发胶；洗发液；染毛剂；头发颜料；护发品；非药制护肤制剂；非药制雪花膏；非药制洗液；个人用除臭剂；化妆用临时文身；化妆用装饰变色剂；化妆用身体颜料；化妆用脸部颜料；化妆用身体艺术贴；文身用染料；化妆用粘合剂；脱毛用蜡；假指甲；用于指甲的化妆制剂；指甲护理用品；指甲油；指甲油清洗剂；化妆用指甲颜料；化妆用皮肤调色剂；化妆用皮肤清新剂；身体调色剂用化妆凝胶；化妆用身体擦洗剂；化妆用面部擦洗剂；晒后护肤液；洁齿剂；牙膏；嗽口水；化妆用棉绒；化妆粉；芳香剂(香精油)；梳妆用品；化妆用非药制香膏；化妆用非药制液体；化妆用非药制油膏；化妆用非药制粉；化妆用非药制凝胶；化妆用非药制润肤剂；按摩制剂(化妆品)；非药用植物精华素(化妆品)；身体喷雾剂(化妆品)；指甲擦光剂；指甲用化妆制剂；指甲尖端(假指甲)；指甲用化妆品；化妆用角质层油；非医用漱口剂；假牙清洗剂；假牙擦光剂；口气清新喷洒剂；牙齿漂白凝胶；带香味的水；头发漂白剂；皮肤晒黑液(化妆品)；

▲已删商品▲

香；

Dessin :

RIO

Nom de la marque :

RIO 2016

Date de dépôt :

Numéro de dépôt :

1116068

Date de priorité :

2010/11/26

Date d' enregistrement :

2011/04/27

Numéro d' enregistrement :

Madrid 1116068

Nom du titulaire :

COMITE INTERNATIONAL OLYMPIQUE

Adresse du titulaire :

Chateau de Vidy CH-1007 Lausanne (CH)(Switzerland)

Produits/services : classe 3

洗衣用漂白剂及其他物料；清洁、擦亮、去渍及研磨用制剂；肥皂；香料制品；香精油；化妆品；发水；牙膏；用于清洁生产金属制品的普通工业用钢、铝、镀金属和混合表面的含化学品和化合物的清洁制剂；工业用的含有化学品和化合物的用于去除工业过程系统污染物的清洁剂；含有化学品和化合物的用于去除喷漆间操作设备表面油漆的脱漆剂；

Dessin :



Relevant Provisions of the Law and the Regulations (Excerpts)

Trademark Law of China

Article 10 The following signs shall not be used as trademarks:

- (1) those identical with or similar to the State name, national flag, national emblem, national anthem, military flag, military emblem, military anthem, or decorations etc, of the People's Republic of China, and those identical with the names or symbols of the Central State government organizations, or with the names of the particular venues, where the Central State government organizations are located, or with the names or graphs of the symbolic buildings of the Central State government organizations;
- (2) those identical with or similar to the State names, national flags, national emblems or military flags etc, of foreign countries, unless consent has been given by the government of the relevant country;
- (3) those identical with or similar to the names, flags or emblems etc, of international intergovernmental organizations, unless consent has been given by the relevant organization or the public is not likely to be misled by such use;
- (4) those identical with or similar to official signs or hallmarks indicating control and warranty, unless authorization has been given;
- (5) those identical with or similar to names or symbols of the Red Cross or the Red Crescent;
- (6) those having the nature of discrimination against any nationality;
- (7) those having the fraudulence, which will easily mislead the public as to the features such as qualities of the goods, or the places of the origins;
- (8) those detrimental to socialist morality or customs, or having other unhealthy influences.

The geographical names of the administrative divisions at or above the county level or the foreign geographical names well-known to the public shall not be used as trademarks, but such geographical names as have otherwise meanings or as an element of a

collective mark or a certification mark shall be exclusive. Where a trademark using any of the above-mentioned geographical name has been approved and registered, it shall continue to be valid.

Article 11 The following signs shall not be registered as trademarks:

- (1) those which consist exclusively of the generic names, designs, or models of the goods in respects of which the trademark is used;
- (2) those which consist exclusively of direct indications of the quality, primary raw material, functions, intended purpose, weight, quantity or other characteristics of goods;
- (3) other signs which are devoid of any distinctive character.

Where trademarks under the preceding paragraph have acquired distinctiveness through use and become easily distinguishable, they may be registered as trademarks.

Article 12 Where a three-dimensional sign is applied for registration of a trademark, it shall not be registered if it consists exclusively of the shape which results from the nature of the goods themselves, the shape of goods which is necessary to obtain a technical result, or the shape which gives substantial value to the goods.

Article 16 Where a trademark contains or consists of a geographical indication with respect to goods not originating in the place indicated, misleading the public as to the true place of origin, the application for registration shall be refused and the use of the mark shall be prohibited. But for those marks that have obtained registration in good faith shall continue to be valid.

Geographical indications mentioned in the preceding paragraph are indications that identify a particular good as originating in a region, where a given quality, reputation or other characteristics of the goods is essentially attributable to its natural or human factors.

Article 22 An applicant for the registration of a trademark shall, in accordance with the prescribed classification of goods, in the application, indicate the class(es) and the indications of goods in respect of which the trademark is to be used.

An applicant can apply for the registration of the same trademark on the

different classes of goods through one application.

Applications for trademark registration and other related documents shall be submitted in writing or electronic format.

Article 23 Where a registered trademark needs to acquire the exclusive right to be used in respect of goods beyond the approved range of use, a new application for registration shall be filed.

Article 30 Where a trademark the registration of which has been applied for is not in conformity with the relevant provisions of this Law, or it is identical with or similar to the trademark of another party that has, in respect of the same or similar goods, been registered or, after examination, preliminarily approved, the Trademark Office shall refuse the application and shall not publish the said trademark.

Article 31 Where two or more applicants apply for the registration of identical or similar trademarks for the same or similar goods, the preliminary approval, after examination, and the publication shall be made for the trademark that was first filed. Where applications are filed on the same day, the preliminary approval, after examination, and the publication shall be made for the trademark that was used earliest, and the applications of the others shall be refused and their trademarks shall not be published.

Article 33 The prior right owner or any interested party who believes that the trademark stands in violation of the provisions of second and third paragraphs of Article 13, Article 15, first paragraph of Article 16, Article 30, 31 and 32 of this law, or any party who believes that the trademark stands in violation of the provisions of Article 10, 11 and 12 of this law may, within three months from the date of the publication, file an opposition against the trademark that has, after examination, been preliminarily approved. If no opposition has been filed at the expiration of the specified period, the registration shall be approved, a certificate of trademark registration shall be issued and the trademark shall be published.

Article 35 Where it is decided that the registration shall be approved by the

Trademark Office, a certificate of trademark registration shall be issued and the trademark shall be published. Where the Opponent is dissatisfied with the decision, he or it may, pursuant to Article 44 and 45 of this law, apply for a declaration that the trademark is invalid to the Trademark Review and Adjudication Board.

Where it is decided that the registration shall not be approved by the Trademark Office and the Opposed party is dissatisfied with the decision, he or it may, within fifteen days from receipt of the notification, apply for a review to the Trademark Review and Adjudication Board. The Trademark Review and Adjudication Board shall make a decision within twelve months from receipt of the application and notify both the Opponent and the Opposed party in writing. The administrative authority for industry and commerce under the State Council may grant a six-month extension under certain circumstances. Where the Opposed party is dissatisfied with the decision of the Trademark Review and Adjudication Board, he or it may, within thirty days from receipt of the notification, institute legal proceedings with the people's court. The people's court shall notify the Opponent as a third party to the litigation.

Article 42 Where a registered trademark is assigned, the assignor and assignee shall sign an agreement for the assignment and jointly file an application with the Trademark Office. The assignee shall guarantee the quality of the goods in respect of which the registered trademark is used.

When a registered trademark is to be assigned, the trademark registrant shall assign in a lump all of its similar trademarks in respect of the identical goods, or, identical or similar trademarks in respect of the similar goods.

With respect to applications for the assignment of registered trademarks, which may produce confusion or other adverse effects, the Trademark Office shall refuse them, and shall notify the applicants in writing and give the reasons therefor.

The assignment of a registered trademark shall be published after it has been approved.

The assignee shall enjoy the exclusive right to use the trademark from the date of publication.

Article 50 Where a registered trademark has been cancelled, invalidated or has not been renewed at the expiration, the Trademark Office shall, during one year from the date of the cancellation, invalidation or expiration, approve no application for the registration of a trademark that is identical with or similar to the said trademark.

Regulations for the Implementation of Trademark Law

Rule 13 Anyone who applies for registration of a trademark shall file an application based on the published Classification of Goods and Services. For each application for registration of a trademark, the applicant shall submit to the Trademark Office one copy of the Application for Trademark Registration and one copy of reproduction of the trademark; if applying for the registration of the combination of colors or a sign with the designated color or colors as a trademark, one copy of colored reproduction of the trademark and one copy of the black and white design shall be submitted; if applying for the registration of trademark without designated color or colors, the black and white design shall be submitted.

The reproductions of a trademark must be clear, easy to be pasted up, printed on smooth and clear durable paper or use photographs as a substitute, and the length and breadth of which shall be not more than ten centimeters and not less than five centimeters each.

If applying for the registration of a three-dimensional sign as a trademark, the applicant shall make a statement in the application, explain how to use the trademark, and submit a reproduction including perspectives of at least three different sides of the mark thereof by which the three-dimensional shape can be determined.

If applying for the registration of the combination of colors as a trademark, the applicant shall make a statement in the application, and explain how to use the trademark.

If applying for the registration of a sound

as a trademark, the applicant shall make a statement in the application, submit the audio reproduction as requested, describe the sound and explain how to use the trademark. The description shall describe the said sound by musical notation or numbered musical notation with explanatory words; if the said sound could not be described by musical notation or numbered musical notation, it shall be describe in words. The trademark description shall be in conformity with the sound sample.

If applying for the registration of a collective mark or a certification mark, the applicant shall make a statement in the application, and submit the documents certifying the qualifications of the subjects and the rules on the administration of the use of the mark.

Where a trademark is, or consists of, foreign words, their Chinese meanings shall be indicated.

Rule 15 The class(es) and indications of goods or services shall be listed in the application as specified in the Classification of Goods and Services; where any goods or services are not included in the Classification of Goods and Services, a description of the goods or services in question shall be attached to the application.

Applications for trademark registration and other related documents submitted in writing shall be typewritten or printed.

The preceding paragraph applies to other trademark affairs.

Rule 19 Where two or more applicants apply respectively on the same day for the registration of identical or similar trademarks in respect of the same or similar goods, both or all of the applicants shall, within 30 days from the date of receipt of the notification of the Trademark Office, submit the evidence of prior use of such trademarks before applying for registration. Where the use started on the same day or none is yet in use, both or all of the applicants may, within 30 days from the date of receipt of the notification of the Trademark Office, conduct consultations on their own and submit a written agreement to the Trademark Office; if they are not willing to conduct consultations or they fail to reach an agreement through consultations, the

Trademark Office shall notify both or all of the applicants to determine one of them by drawing lots and refuse the applications for registration filed by others. Where an applicant has been notified by the Trademark Office but fails to participate in the drawing of lots, the application filed by such an applicant shall be considered abandoned, and the Trademark Office shall notify the applicant in writing who does not participate in the drawing of lots.

Rule 43 Anyone who applies for the territorial extension to China, and requests for the protection of a three-dimensional sign, combination of colors or sound as a trademark, or the protection of collective trademark or certification trademark, within three months from the date of recording the trademark in the International Register, shall submit the materials required by Rule 13 through the trademark agency established in accordance with laws in China. If the applicant fails to submit the relevant materials within the time limit, such application shall be refused.

Rule 45 The opponent who is in conformity with Article 33 of The Trademark Law may file an opposition to the Trademark Office against a request for territorial extension to China within 3 months from the first day of the next month following the publication of the International Registration Gazette by the World Intellectual Property Organization.

The Trademark Office shall notify the International Bureau the opposition in the form of provisional refusal before the expiry of the applicable refusal period.

The Opposed party may make a response within 30 days from receipt of the provisional refusal transmitted by the International Bureau. The response and other related evidence shall be submitted through the trademark agency established in accordance with laws in China.

Rule 47 For the assignment of territorial extensions designating China, the assignee shall have a real and effective industrial or commercial establishment in, or be domiciled in a contracting party, or be a national of a contracting state or a state member of a contracting organization.

Where an assignor fails to assign in a lump all his or its identical or similar marks in

respects of the same or similar goods or services, the Trademark Office shall notify the holder of international registration to rectify the situation within 3 months from the date of the notification; if the situation is not rectified at the expiration of the time limit, or if the assignment of a trademark is likely to produce confusion or bears other adverse effects, the Trademark Office shall decide that the said assignment has no effect in China, and declare it to the International Bureau.

Rule 48 For the limitation of list of goods and services of territorial extensions designating China, if the limitation does not comply with the requirements on the classification of goods or services enforced in China, or enlarges the original list of goods and services, the Trademark Office shall decide that the limitation has no effect in China, and declare it to the International Bureau.

Administrative Reconsideration Law

Article 9 Any citizen, legal person or any other organization, who considers that a specific administrative act has infringed upon his or its lawful rights and interests, may file an application for administrative reconsideration within 60 days from the day when he or it knows the specific administrative act, except that the time limit prescribed in laws exceeds 60 days.

If the time limit prescribed by law is delayed due to force majeure or other special reasons, the time limit shall be accounted continuously from the day when the obstacle is removed.

Administrative Procedure Law

Article 46 If a citizen, a legal person or any other organization brings a suit directly before a people's court, he or it shall do so within six months from the day when he or it knows that a specific administrative action has been undertaken, except as otherwise provided for by law.