

**NOTIFICATION OF PROVISIONAL REFUSAL OF AN INTERNATIONAL REGISTRATION DESIGNATING
NEW ZEALAND**

1.	Office making the notification: Intellectual Property Office of New Zealand							
2.	Date of the notification of provisional refusal: 20 April 2018							
3.	Number of the international registration: 1352036 Our reference: 1089829							
4.	Representation of the mark: FRANKIE4							
5.	Name of the holder: All Podiatry Pty Ltd							
6.	Basis for refusal: Provisional refusal based on an <i>ex officio</i> examination.							
7.	Scope of refusal: Provisional refusal for all the goods and/or services.							
8.	Grounds for refusal: <u>Identical or confusingly similar trade marks</u> Section 25(1) – Similar trade mark <table border="1" data-bbox="276 1312 1426 1697"> <tr> <td>Objection</td> <td> Our search of the trade marks register has revealed at least one trade mark that is similar to yours, and covers the same or similar goods or services. This mark has priority over yours. For details of the similar mark(s), please see the attached search report. </td> </tr> <tr> <td>Goods and/or services</td> <td>Clothing; headwear; footwear.</td> </tr> <tr> <td>Relevant law</td> <td>The relevant provisions of New Zealand law are listed below at 11.</td> </tr> </table>		Objection	Our search of the trade marks register has revealed at least one trade mark that is similar to yours, and covers the same or similar goods or services. This mark has priority over yours. For details of the similar mark(s), please see the attached search report.	Goods and/or services	Clothing; headwear; footwear.	Relevant law	The relevant provisions of New Zealand law are listed below at 11.
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Relevant law	The relevant provisions of New Zealand law are listed below at 11.							
9.	Information relating to subsequent procedure: <u>Responding to this refusal</u> The Holder may respond in writing to this refusal. Any response made to the Office must be filed using the Commissioner's website at www.iponz.govt.nz . You will also need to provide an address for service in New Zealand or Australia. <u>Timeframe for responding</u> If the Holder does not respond by 29 March 2019 , this refusal becomes final for the specified							

goods and/or services.

Refusal still possible following opposition

If we subsequently accept the designation in New Zealand refusal may still result from an opposition. The opposition period runs for 3 months from the publication of the mark. It is possible that an opposition may be filed more than 18 months from the date we were notified of the International Registration.

10. Signature by the Office:

Intellectual Property Office of New Zealand

Kirsten Odell

Associate Trade Mark Examiner

+6449014198

For the Commissioner of Trade Marks


11. Provisions of relevant law:

Trade Marks Act 2002

25 Registrability of identical or similar trade mark

- (1) The Commissioner must not register a trade mark (**trade mark A**) in respect of any goods or services if—
- (a) it is identical to a trade mark (**trade mark B**) belonging to a different owner and that is registered, or has priority under section 34 or section 36,—
 - (i) in respect of the same goods or services; or
 - (ii) in respect of goods or services that are similar to those goods and services, and its use is likely to deceive or confuse; or
 - (b) it is similar to a trade mark (**trade mark C**) that belongs to a different owner and that is registered, or has priority under section 34 or section 36, in respect of the same goods or services or goods or services that are similar to those goods or services, and its use is likely to deceive or confuse; or
 - (c) it is, or an essential element of it is, identical or similar to, or a translation of, a trade mark that is well known in New Zealand (**trade mark D**), whether through advertising or otherwise, in respect of those goods or services or similar goods or services or any other goods or services if the use of trade mark A would be taken as indicating a connection in the course of trade between those other goods or services and the owner of trade mark D, and would be likely to prejudice the interests of the owner.
- (2) section 26 overrides subsection (1).

Search Report

Trademark Number	1032741
Name of Owner	HOTLINE SHOE DIFFUSION PTY LIMITED
Address of Owner	41A Vestey Drive, Mt Wellington, New Zealand
Mark Name	Frank/e
Representation	
Mark Description	N/A
Status	100 Registered
Application date	27.11.2015
Registration date	31.05.2016
Priority date	
Domain	Trade Mark
Nice classes	25
Goods/Services	Class 25 Canvas shoes; dress shoes; esparto shoes or sandals; flat shoes; leather shoes; shoes; shoes for casual wear; shoes for leisurewear; slip-on shoes; toe shoes; walking shoes.