



**INTELLECTUAL PROPERTY OFFICE  
OF THE PHILIPPINES**

BUREAU OF TRADEMARKS  
Intellectual Property Center, 28 Upper McKinley  
Rd., McKinley Hill Town Center, Fort Bonifacio,  
Taguig City 1634, Philippines  
Website: <http://www.ipophil.gov.ph>

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|                         |                                             |
| DOCUMENT NO.            | 2019/38781                                  |
| DATE OF<br>NOTIFICATION | Pls. refer to the digital<br>signature date |

**The International Bureau**

World Intellectual Property Organization  
34, chemin des Colombettes  
1211 Geneva 20  
Switzerland

**NOTIFICATION OF A PROVISIONAL REFUSAL OF PROTECTION  
OF AN INTERNATIONAL REGISTRATION DESIGNATING  
THE PHILIPPINES  
Rule 17(1)**

|                                               |                                            |
|-----------------------------------------------|--------------------------------------------|
| International Registration No: <b>1446305</b> | IR Date (Filing Date): 29 May 2018         |
| Holder:                                       | Burn Cable Management Systems Limited [GB] |
| Mark:                                         | FIRE RESISTANT CABLE SIMPLEX UK            |
| Examiner:                                     | VINSANT DENVER R. CANICULA                 |
| Supervisor:                                   | MARITES Q. SALVIEJO                        |

The mark has been examined, but the issues below prevent the Intellectual Property Office of the Philippines (IPOPHL) from granting the registration of the mark for **all the goods and/or services**.

**Registrability Issue(s):**

The mark consists exclusively of signs or of indications that may serve in trade to designate the kind, quality, intended purpose, geographical origin or other characteristics of the goods. (IP Code, Sec. 123.1[j])

**FIRE RESISTANT CABLE implies the insulation material of a cable being fire retardant. Whereas, the term SIMPLEX conveys the design feature of a cable.**

**SEC. 123. Registrability**

123.1. A mark cannot be registered if it:

(j) Consists exclusively of signs or of indications that may serve in trade to designate the kind, quality, quantity, intended purpose, value, geographical origin, time or production of the goods or rendering of the services, or other characteristics of the goods or services

123.2. As regards signs or devices mentioned in paragraphs (j), (k), and (l), nothing shall prevent the registration of any such sign or device which has become distinctive in relation to the goods for which registration is requested as a result of the use that have been made of it in commerce in the Philippines. The Office may accept as prima facie evidence that the mark has become distinctive, as used in connection with the applicant's goods or services in commerce, proof of substantially exclusive and continuous use thereof by the applicant in commerce in the Philippines for five (5) years before the date on which the claim of distinctiveness is made.

**RULE 102. Registrability.** — A mark cannot be registered if it:

(j) Consists exclusively of signs or of indications that may serve in trade to designate the kind, quality, quantity, intended purpose, value, geographical origin, time or production of the goods or rendering of the services, or other characteristics of the goods or services

As regards signs or devices mentioned in paragraphs (j), (k), and (l), nothing shall prevent the registration of any such sign or device which has become distinctive in relation to the goods or services for which registration is requested as a result of the use that has been made of it in commerce in the Philippines. The Office may accept as prima facie evidence that the mark has become distinctive, as used in connection with the applicant's goods or services in commerce, proof of substantially exclusive and continuous use thereof by the applicant in commerce in the Philippines for five (5) years before the date on which the claim of distinctiveness is made.

***Information relating to subsequent procedure:***

The applicant must respond in writing to this refusal within two (2) months from the digital signature date found at the end of this notice. The response must be filed by a duly authorized representative with a local address in the Philippines (the list of agents in the Philippines is available on the IPOPHL website). Within the two (2) month-period, the applicant may request an extension of time of another two (2) months to respond to this provisional refusal. The request for extension must be filed by the applicant's local representative in the Philippines. The request for extension can only be made once.

Failure to respond to the provisional refusal, submission of an incomplete response, or failure to request an extension of time to respond within the two-month period will result in the abandonment of the application. In case of abandonment, the applicant has three (3) months from the abandonment date (counted from the lapse of the period to respond) to request the revival of the application. Failure to revive an abandoned application will result in its final abandonment and the confirmation of the total provisional refusal.

If the applicant is able to overturn the objections raised by the Examiner in the provisional refusal, the mark will be published for purposes of opposition. If no opposition to the registration of the mark is filed, the Office will issue a statement of grant of protection.

All responses or communications should be addressed to: THE DIRECTOR OF TRADEMARKS, Intellectual Property Office of the Philippines, 14/F Intellectual Property Center, No. 28 Upper McKinley Road, McKinley Hill Town Center, Fort Bonifacio, Taguig City 1634, Philippines.

***Additional information:***

The IPOPHL requires the submission of the Declaration of Actual Use (DAU) within three (3) years from the date of international registration or the date of subsequent designation, as the case may be; within one (1) year from the fifth anniversary of the date of grant of protection of the mark; within one (1) year from the renewal date; and within one (1) year from the fifth anniversary of each renewal. The provisions governing the filing of the DAU are contained in the Trademark Regulations of 2017.