DANISH PATENT AND TRADEMARK OFFICE

Danish Patent
and Trademark Office

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Danish Ministry of Economic
and Business Affairs

Partner
Nordic patent institute

The International Bureau, WIPO
34, chemin des Colombettes
CH-1211 Geneva
Switzerland

Our ref:	MP1439058	6 March 2019
Your Reference:		
International Registration:	1439058	
Holder:	Guangdong Camel apparel Co., Ltd	
Mark:		
Time limit:	6 July 2019	

Dear Madam/Sir

Notification of Partial Provisional Refusal of IR 1439058 according to Rule 17(2)

The above-mentioned mark is provisionally refused protection in Denmark for some of the goods/services covered by the designation, namely:

The reasons for the refusal are given in the enclosed examination report. The holder may request a review of the refusal before 6 July 2019. Further information about procedures is found in the report.

Yours faithfully

Kim Schroeder Larsen
Legal Adviser, Trademark/Design

CORPORATE SERVICES AND ASSETS

Examination Report

Grounds for refusal

We have found that the designation is liable to mislead, cf. the Danish Trade Marks Act, Section 14(1)(3).

The mark consists of a camel. The mark is not a true image of a camel, but a drawn image, with certain special characteristics. These stylistics of the drawing does not remove the focus from which object is being shown in the mark, as the resemblance with the animal is so close that there is no doubt.

Consequently, the mark is liable to mislead when used for the goods/services "*fleece wool*" as these goods could be understood as being made from camel-wool when sold in conjunction with the mark.

If you limit the list of goods and services to "*Packing string; fishing nets; vehicle covers [not fitted]; hammocks; tents; awnings; Mongolian yurt; bags [envelopes, pouches] of textile, for packaging; wadding for filtering*" the mark will no longer be liable to mislead.

Request for review of the provisional refusal

You may request a review of the provisional refusal **within 4 months** from the date of issue of the provisional refusal.

Please observe that documents or evidence submitted by you will be available to the public according to the regulations of The Danish Access to Public Administration Files Act.

A request for review should be sent by post or e-mail to:

Address

Patent- og Varemærkestyrelsen
Helgeshøj Allé 81
DK-2630 Taastrup
Denmark

E-mail

pvs@dkpto.dk

Final refusal and appeal

If you do not reply within the time-limit, we will issue a final refusal, which is subject to appeal to the Board of Appeal for Patents and Trademarks.

If you do not appeal our final decision, we will publish the mark for the remaining goods/services, namely:

- **Class 22:** Packing string; fishing nets; vehicle covers [not fitted]; hammocks; tents; awnings; Mongolian yurt; bags [envelopes, pouches] of textile, for packaging; wadding for filtering.

Further information

Please see Appendices A and B for information on our search of **earlier rights** (relative grounds for refusal) and an abstract of the relevant sections of the Danish Trade Marks Act.

You are welcome to contact us if you have any questions.

Appendix A: Guide concerning Confusingly Similar Marks
Appendix B: Abstract of the Danish Trade Marks Act

Appendix A

Guide concerning Confusingly Similar Trademarks

The mark is confusingly similar to another trademark
The Danish Patent and Trademark Office has found that your trademark is confusingly similar to another trademark. We have assessed whether there is a likelihood of confusion between the marks, i.e. whether the marks are similar visually as well as phonetically and whether the goods and services covered by your application are identical with or similar to those covered by the earlier right. **We refer to the Danish Trade Marks Act, section 15, containing rules concerning identical and confusingly similar trademarks.**

Please inform us whether you wish:

- to register your mark irrespective of the earlier right - or
- to limit the list of goods and services in order to avoid that your application covers goods and services similar to those covered by the earlier right - or
- to obtain a letter of consent from the proprietors of the earlier right permitting you to make use of and register your trademark in Denmark.

If we do not hear from you before the expiration of the time limit mentioned in our letter, we will register your trademark irrespective of the earlier right mentioned in the search report.

Registration
Please be informed that the proprietor of the earlier right can file an opposition against the registration of your trademark if you choose to have your trademark registered irrespective of the earlier right.

Limitation
If the earlier right does not cover all the goods, for which your trademark is applied, you can limit your application in order to avoid that your application covers goods similar to those covered by the earlier right. You must file a new list of goods, if you wish to limit your application. Please be informed that we can assist you in connection with the wording of such a list.

Written consent
A written consent must be unconditional, and it must permit you to register the applied trademark for the goods and services covered by the application. If the consent does not include all goods and services applied for, you must limit your application in accordance with the consent. The letter of consent must be dated and duly signed by the proprietor of the earlier right. We can only accept a copy, if it is attested.

Appendix B

Abstract of the Danish Trade Marks Act

Signs of which a trade mark may consist

Section 2

A trade mark may consist of any signs, in particular words, including personal names, or designs, letters, numerals, colours, the shape of goods or of the packaging of goods, or sounds, provided that such signs are capable of:

i) distinguishing the goods or services of one undertaking from those of other undertakings; and

ii) being represented on the register in a manner which enables the competent authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor.

Application and registration of trade marks

Section 11

(1) An application for the registration of a trade mark shall be filed with the Patent and Trade mark Office. The application shall contain information in accordance with the provisions laid down pursuant to section 48. The application fee prescribed by section 60(a)(1) shall be paid.

Section 12

(1) The goods and services in respect of which trade mark registration is applied for shall be classified in conformity with the Nice Classification. Where the applicant requests registration for more than one class, the applicant shall group the goods and services according to the classes of the Nice Classification, each group being preceded by the number of the class to which that group of goods or services belongs, and shall present them in the order of the classes.
(2) The goods and services for which protection is sought shall be identified by the applicant with sufficient clarity and precision to enable the Office and economic operators, on that sole basis, to determine the extent of the protection sought.
(3) The general indications included in the class headings of the Nice Classification or other general terms may be used, provided that they comply with the requisite standards of clarity and precision set out in this provision.

Examination of applications

Section 16

(1) If the application does not comply with this Act or the provisions laid down pursuant to this Act, or if the Patent and Trade mark Office has other objections to the acceptance of the application, the Patent and Trade mark Office shall notify the applicant accordingly and invite him to file his observations within a specified time limit.

Grounds for refusal

Section 13

(1) The following shall not be registered:
(i) Signs which cannot constitute a trade mark.
(ii) Trade marks which are devoid of any distinctive character.
(iii) Trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, or the time of production of the goods or of rendering of the service, or other characteristics of the goods or services.
(iv) Trade marks which consist exclusively of signs or indications which have become customary in the current language or in the bona fide and established practices of the trade.

(2) A trade mark shall not be excluded from registration in accordance with paragraph 1(2)-(4), if, before the date of application for registration, following the use which has been made of it, it has acquired a distinctive character.

Section 14
Furthermore, the following shall not be registered:
1) signs which consist exclusively of:
   a) the shape, or another characteristic, which results from the nature of the goods themselves,
   b) the shape, or another characteristic, of goods which is necessary to obtain a technical result,
   c) the shape, or another characteristic, which gives substantial value to the goods.
2) Trade marks which are contrary to law, public order or morality.
3) Trade marks which are liable to mislead the public, for instance as to the nature, quality or geographical origin of the goods or services.
4) Trade marks which have not been authorized by the competent authorities and are to be refused pursuant to Article 6ter of the Paris Convention for the Protection of industrial Property, and trade marks which include badges, emblems and escutcheons which are of public interest, unless the consent of the appropriate authority to their registration has been given.
5) Trade marks which are excluded from registration pursuant to Union legislation or the national law of the Member State concerned, or to international agreements to which the Union or the Member State concerned is party, providing for protection of designations of origin and geographical indications.
6) Trade marks which are excluded from registration pursuant to Union legislation or international agreements to which the Union is party, providing for protection of traditional terms for wine.
7) Trade marks which are excluded from registration pursuant to Union legislation or international agreements to which the Union is party, providing for protection of traditional specialities guaranteed.
8) Trade marks which consist of, or reproduce in their essential elements, an earlier plant variety denomination protected by plant variety sort rights and which are in respect of plant varieties of the same or closely related species.