



World Intellectual Property
Organisation (WIPO)
International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

Your Reference:
International Registration No:
WO0000001455936
Examiner: James Hopkins
Direct Telephone: +44(0)1633 813541
Date: 21 March 2019

Please reply by **21 May 2019** quoting the International Registration number

Dear Sir/Madam,

Intl Reg No: WO0000001455936
Mark: DON'T DESPAIR, REPAIR !
Holder: Beccair, LLC
Class: 3

Notification of a Provisional Total Refusal of Protection (not based on an opposition) by the Intellectual Property Office

I have examined your designation under the Trade Marks Act 1994 and carried out a search of the relevant trade mark registers. Your designation does not appear to meet the requirements for Protection for the following reason.

Absolute grounds for refusal

Section 3(1)(b)

The designation is not acceptable in Class 3. There is an objection under Section 3(1)(b) of the Act as the mark is devoid of distinctive character. This is because the expression merely serves a promotional function i.e. the relevant public would perceive the expression "DON'T DESPAIR, REPAIR !" as a promotional message with the purpose of highlighting a positive attribute of the hair products being offered.

It is considered that the average consumer, when greeted with the expression, would not attribute any trade mark significance to the expression and would instead merely perceive the sign as a promotional intimation that they ought not to panic as the goods offered are capable of repairing damage i.e. don't despair, repair.

When a sign is purely promotional in nature it is considered that it cannot function as a badge guaranteeing the commercial origin of the goods and does not distinguish your goods from those of another undertaking.

Next steps

If you disagree with my assessment of your designation, you can write or telephone me. My contact details are shown at the top of this letter.

If following this discussion, you still disagree with my findings you have the right to request a hearing with a senior officer to discuss the matter further.

If your address is outside of the European Community, the Isle of Man or the European Economic Area you must provide us with a contact address in one of the above areas. This can be done by filling in and returning a form TM33 "Appointment of change of Representative (for trade mark owners or holders)". This form is available at:

ipo.gov.uk/tmforms

If the issues raised in the examination report is/are not resolved by the date shown above, the designation will be refused under the provisions of Section 37(4) of the Trade marks Act 1994.

Yours faithfully,

James Hopkins

Trade Marks Registry