



PATENTS OFFICE

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Bóthar Hebron
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Éire

Government Buildings
Hebron Road
Kilkenny
Ireland

WORLD INTELLECTUAL PROPERTY ORGANISATION
34, CHEMIN DES COLOMBETTES
PO BOX 18
1211 GENEVA 20
SWITZERLAND

Date of Notification: 20 September 2019

International Registration No: 1475635

Mark: deo fresh

Holder: Torunskie Zakłady Materiałów Opatrunkowych, Spółka Akcyjna of Poland

Notification of the Irish Patents Office of Total Provisional Refusal

Dear Sir/Madam,

This notification is issued pursuant to Article 5 of the Protocol relating to the Madrid Agreement concerning the International Registration of Marks and Rule 17(2) of the Common Regulations under the Agreement and Protocol, and is to inform you that protection for this mark is refused for the reasons set out below. Any references to Sections are to Sections of the Trade Marks Act, 1996 and to Rules are to Rules of the Trade Marks Rules, 1996.

1.

Section 8(1)(b)

The mark is devoid of distinctive character.

For a mark to possess distinctive character it must serve to identify the goods/services in respect of which protection is sought as originating from a particular undertaking, and thus to distinguish those goods/services from the goods/services of other undertakings.

It is contended that the mark, for which protection is sought, is incapable of performing the essential function of a trade mark, namely that of identifying the origin of the goods specified.

Section 8(1)(c)

The mark consists exclusively of signs or indications which may serve in trade, to designate the kind of goods in respect of which protection is sought. The wording should therefore remain free for all economic operators in that field to use.

Section 10(2)

There exists a likelihood of confusion on the part of the public between the mark and the following earlier mark(s):

Registered Mark No:246154

Mark:DEOFRESH

Proprietor:HENKEL AG & CO. KGaA

Henkelstrasse 67

40289 Dusseldorf

Germany

Date of Application:05/10/2011

Date of Registration:05/10/2011

Class 3 : Impregnated treated synthetic cellulose non-woven apertured sheets used in washing; laundry fabric conditioners, softeners, dirt and dye attracters; bleaching preparations and other substances for laundry use; cleaning, polishing, degreasing and abrasive preparations.

Address for Service:FRKelly

27 Clyde Road

Ballsbridge

Dublin 4

Ireland

Registered European Union Trade Mark No:010726552

Mark:DEOFRESH

Proprietor:Henkel AG & Co. KGaA

Henkelstr. 67

40589 Düsseldorf

Germany

Date of Application:14/03/2012

Date of Registration:25/07/2012

Priority Date: 05/10/2011


Class 3 : Impregnated treated synthetic cellulose non-woven apertured sheets used in washing; laundry fabric conditioners, softeners, dirt and dye attracters; bleaching preparations and other substances for laundry use; cleaning, polishing, degreasing and abrasive preparations.

2. This refusal is in respect of all of the goods for which protection is sought.
3. The holder may make representations in writing, or may request an extension of time for doing so, not later than **19 December 2019**. A request for an extension of time received after that date may be granted at the discretion of the Controller.
4. If representations or a request for an extension of time are not received by the specified date, protection of the mark will be refused.
5. Representations to the Controller or a request for a hearing in relation to this notification of refusal must be accompanied by an address for service within the European Economic Area as required by Rule 10(1)(a) as amended by Statutory Instrument No. 410 of 2010; failure to furnish such address will result in the holder being deemed to have abandoned his request for protection.
6. If, following the receipt of representations, it is considered that the requirements for protection are met, the mark will be published in the Official Journal and protection of it will be subject to opposition and observations by

third parties. A refusal based on opposition or observations received may subsequently be issued.

7. Date of refusal: **20 September 2019**

Yours faithfully

A handwritten signature in cursive script that reads "Paula Murphy".

Paula Murphy
Trade Mark and Design Examination Division
Direct Line: (056) 7720135
Ext: 4135
tmexam@patentsoffice.ie