

Notification of Provisional Refusal based on an Ex Officio Examination (to WIPO)

Pursuant to Rule 17(2) of the Common Regulations under the Madrid Agreement concerning the international registration of marks and the Protocol relating to that Agreement.

I. Name and address of the Office making the notification:

Norwegian Industrial Property Office	Telephone:	+47 22 38 73 00
P.O.Box 8160 Dep., N-0033 OSLO, NORWAY	Telefax:	+47 22 38 73 01
	E-mail:	post@patentstyret.no

II. International registration: 1457718

**ONE
PRICE
COFFEE**

III. Date of Subsequent Designation (if any):(yyyy.mm.dd)

IV. Holder of the international registration:

OneGroup Company, Limited Liability Company, proezd Nauchny, d. 10, Floor 1, office 462, 117246 MOSCOW, Russland

V. The scope of the refusal:

☐ Provisional refusal for all goods and/or services

☒ Provisional partial refusal for some of the goods and services - see under X

VI. Grounds for refusal:

☒ Absolute grounds: **Trademark Act Section 14** - The trademark is considered to be devoid of any distinctive character and/or it can be used in trade to designate the goods and services in question. As a whole, the mark is incapable of conferring ideas of a commercial origin on the goods and services claimed. The mark consists of the term ONE PRICE COFFE. When applied to «Artificial coffee; chicory [coffee substitute]; coffee flavorings; coffee; coffee-based beverages» as claimed in class 30, «retail and wholesale services» as claimed in class 35 or «Bar services; café services; cafeteria services» as claimed in class 43, it will be perceived as an indication that all types of coffe are offered or can be purchased for the same price. The figurativ element of the mark is minimal and not able to add the necessary distinctiveness either. As a whole, it is not likely that the average consumer will perceive the mark as a trademark. Consequently, the mark does not fulfil the function of guaranteeing the origin of the products and services claimed, and must be refused.

Trademark Act Section 15.1.b - The trademark is likely to deceive the public with regards to the kind of goods or contents contained in the goods claimed in the international registration. The mark contains the term COFFE and is claimed for «chocolate beverages with milk». Consequently, the average consumer will perceive the goods as consisting of COFFE, which will be incorrect as the list of goods instead contains chocolate beverages. It is likely that this will affect the choice of the average consumer when purchasing goods such as those claimed in the international registration; therefore the mark must be refused.

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Trademark Act Section 18 - The term "retail and wholesale services" in class 35 is considered too vague and is not sufficiently specified with regards to the goods or types of goods to which those services relate. As the subject matter of the protection conferred is not adequately precise, the mark must be refused.

☐ Relative grounds:
Likelihood of confusion with:

VII. The relevant provisions of the Norwegian Trademarks Act are under XII.

VIII. **Date of provisional refusal:** (yyyy.mm.dd) **2019.11.15**
Response must be received within: (yyyy.mm.dd) **2020.02.15**
See more information under XI about the time limit and which actions you need to take if you want to request a review of the provisional refusal.

IX. Signature by the Office:
THE NORWEGIAN INDUSTRIAL PROPERTY OFFICE

Elisa Bischoff

(National reference no.: 201904323)

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X. Scope of the provisional refusal in respect of goods and/or services:

If the holder does not contest the refusal within 3 months, protection is given for:

Class 30 *limited to*: Administration of consumer loyalty programs; administrative processing of purchase orders; advertising by mail order; advertising; advisory services for business management; auctioneering; business efficiency expert services; business information; business investigations; business management and organization consultancy; business management assistance; business management consultancy; business management of reimbursement programs for others; business organization consultancy; business research; commercial administration of the licensing of the goods and services of others; commercial information and advice for consumers in the choice of products and services; commercial intermediation services; compiling indexes of information for commercial or advertising purposes; demonstration of goods; direct mail advertising; dissemination of advertising matter; distribution of samples; economic forecasting; marketing research; marketing; negotiation and conclusion of commercial transactions for third parties; negotiation of business contracts for others; on-line advertising on a computer network; organization of exhibitions for commercial or advertising purposes; organization of trade fairs for commercial or advertising purposes; outsourced administrative management for companies; outsourcing services [business assistance]; pay per click advertising; personnel management consultancy; presentation of goods on communication media, for retail purposes; procurement services for others [purchasing goods and services for other businesses]; professional business consultancy; providing business information via a web site; provision of an on-line marketplace for buyers and sellers of goods and services; public relations; publicity material rental; rental of advertising time on communication media; rental of billboards [advertising boards]; rental of sales stands; rental of vending machines; sales promotion for others; search engine optimization for sales promotion; systemization of information into computer databases.

The international registration will be published for protection with the above-reduced list of goods/services.

Rapid publication of the limited list

If the holder accepts the proposed limitation of the goods/services, and wishes a publication of the mark for these goods/services as soon as possible, he/she may confirm this in writing to The Norwegian Industrial Property Office. If The Norwegian Industrial Property Office does not receive any such confirmation from the holder, the mark will however be published for protection of the limited list of goods/services, after the expiry of all the time limits.

- XI.** The holder of the registration may request a review of the provisional refusal. The Norwegian Industrial Property Office must receive the request no later than 3 months from the date of this provisional refusal (The time limit is indicated under point VIII). Such request must provide an address of correspondence and be filed in Norwegian, Danish, Swedish or English. The Norwegian Industrial Property Office will respond in Norwegian. Please note that if The Norwegian Industrial Property Office, either subsequent to review or appeal, accept the designation of Norway, a post grant opposition may be filed against the mark within 3 months from the publication of the mark.

If the holder does not respond to this provisional refusal within the time limit, the international registration shall be considered abandoned in Norway for the goods/services that are excluded (Trademark Act Section 70 and 23). The international registration shall be resumed if the holder, within two months from the expiration of the time limit responds to the provisional refusal and pays the stipulated fee (NOK 550,-). Please note that The Norwegian Industrial Property Office does not send any notifications to the holder that the international registration is abandoned in Norway.

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- XII.** See the relevant provisions of the Norwegian Trademarks Act regarding the grounds of this provisional refusal on our home page:
<https://www.patentstyret.no/en/services/trademarks/rules-and-regulations-trademarks/trademarks-act/>