



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

**Your Reference:**  
**International Registration No:**  
WO00000001505998  
**Examiner:** Samantha Carter  
**Direct Telephone:** +44(0)1633813724  
**Date:** 09 January 2020

Please reply by **09 March 2020** quoting the International Registration number

Dear Sir/Madam

**Intl Reg No:** WO00000001505998  
**Mark:** TOP NOTCH  
**Holder:** GAON S.r.l.  
**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 as there is an objection under Section 3(1)(b). This is because the mark consists of the term **TOP NOTCH**, being a sign which would not be seen as a trade mark, as it is devoid of distinctive character when used in relation to cosmetic products. It is considered that on goods of this nature, the mark would simply be seen as a laudatory, promotional term informing the consumer that the products are first-rate/of the highest quality.

Where a mark is providing an obvious message, it would not be seen as a badge of trade origin. There is nothing about the subject mark that might, beyond its obvious promotional meaning, enable the relevant public to memorise the sign easily and instantly as a distinctive trade mark for the goods applied for.

**Search for earlier trademarks – for your information only**

I have searched the relevant trade mark registers and found an earlier trade mark that I think you should be aware of. My initial view is that your trade mark and

your goods and are similar to the earlier trade mark and their goods. Therefore the public are likely to confuse your trade mark with the earlier trade mark.

This earlier mark is shown at the end of this report.

I am not refusing to accept your designation because of the earlier trade mark. Should you decide to proceed with your designation, I will not inform the owners of the mark that your designation will be published in our online journal. We do not notify holders of European Union Trade Marks (EUTM) or International Registrations (EU), which also have protection in the UK; this is for your information only

If you proceed your designation will be published in the online Trade Marks Journal and anyone can oppose your designation should they have grounds to do so. If such action were to be successful, this would result in costs award against you. Further information can be found on our website: [ipo.gov.uk/tmoppose](http://ipo.gov.uk/tmoppose)

### **Next step**

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. You may respond by fax, post or email to: [trademark.examination@ipo.gov.uk](mailto:trademark.examination@ipo.gov.uk)

If following this discussion, you still disagree with my findings you have the right to request a hearing with a senior officer to argue against the absolute grounds issues raised. You cannot request a hearing in respect of the earlier trademarks as these are not formal objections.

If your address is outside of the European Community, the Isle of Man or the European Economic Area, please provide us with a contact address in one of the above areas. This can be done by filling in and returning a Form TM33 (Request to appoint an agent or address for service). This form is available at: [ipo.gov.uk/tmforms](http://ipo.gov.uk/tmforms)

**If the issue raised in the examination report is 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

*Samantha Carter*  
**Trade Marks Registry**

## **Earlier Marks**

### ***1) Earlier Mark:***

Trade Mark ID: EU014981369

Domain: EUTM

## **Mark Representation**

The logo for 'TopNotch' is displayed in a stylized, pixelated font. The word 'Top' is in a standard sans-serif font, while 'Notch' is in a more decorative, rounded font. A small star is positioned above the 'o' in 'Top'.

## **Filing Date/Date of Designation**

07/01/2016

## **Goods & Services**

**Class:** 10

Massage apparatus; Massage mitts.

**Class:** 21

Bath brushes; Small domestic utensils and containers; Trays and containers for cosmetics; Cosmetic and toilet utensils and bathroom articles.

## **Owner/Holder Details**

**Name:** Loretta Cowles

**Address:** 1 Calkin Close

**Town:** Christchurch

**Postcode:** BH23 2TS

**Country:** GB

## **Representative Details**

**Name:** Katarzyna Binder-Sony

**Address:** ul. Poznańska 23/6

**Town:** Warszawa

**Postcode:** 00-685

**Country:** PL