



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

Date of Notification: **24 February 2020**

International Registration No: 1507144
Mark: HEMPROLL
Holder: Mudanjiang Hengfeng Paper Co.LTD of China

Notification of the Intellectual Property Office of Ireland of Partial 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)

Section 8(1)(b) of the Act prohibits the registration of marks that are devoid of any distinctive character. The distinctive character required of a mark in order to qualify for registration is that which allows it to perform its essential function, i.e., to guarantee the origin of the marked goods or services to the consumer or end user by enabling him, without any possibility of confusion, to distinguish the product or service from others which have a different origin. In order to qualify for registration, a trade mark must, therefore, be of such a nature as to sufficiently impress itself on the mind of the consumer as being the mark of a particular undertaking so that the consumer will know that any goods or services carrying that mark are those of that undertaking alone. In the present case the mark HEMPROLL will not perform this function as there is nothing unusual about the mark and the relevant consumer would not recognise the mark applied for as a trade mark.

Section 8(1)(c)

Section 8(1)(c) of the Act prohibits the registration of trade marks that consist exclusively of indications that are descriptive of the goods or services or of their essential characteristics. In this case, the mark is descriptive of the kind and intended purpose of the goods on offer. The purpose of that prohibition is to ensure that such indications remain free for use by all undertakings and that they are not monopolised through registration as trade marks.

The Office considers that the designation HEMPROLL is descriptive of the goods applied for and would not enable the relevant public to distinguish the goods that are included in the application from those of a different commercial origin. It is considered that the term applied for would not be perceived by relevant consumers as a badge of trade origin without them being educated to the fact. It could be perceived as rolling marijuana in paper. In the present case when presented with the mark HEMPROLL for the first time the average consumer would view the mark as a description of the kind and intended purpose of the goods on offer.

Definition of hemp – the cannabis plant, especially when grown for fibre. It is the fibre of the cannabis plant, extracted from the stem and used to make rope, strong fabrics, fibreboard and paper. It is used in names of other plants that yield fibre, e.g. Manila hemp.

In Google, you can smoke hemp, ‘advocates have long differentiated marijuana, the psychoactive cannabis flower that people smoke, from hemp, marijuana’s non-psychoactive relative. But these days, more people are smoking hemp even though they’re unlikely to get stoned. They carefully cultivate hemp flowers specifically for smoking’.

2. This refusal is in respect of the following goods for which protection is sought:
Class 34.
3. The holder may make representations in writing, or may request an extension of time for doing so, not later than **23 May 2020**. A request for an extension of time received after that date may be granted at the discretion of the Controller of Intellectual Property.
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 in respect of the goods/services listed in paragraph 2.
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 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. In the absence of any representations, the mark will be published in the Official Journal in respect of the remaining goods/services, i.e. other than those listed in paragraph 2, 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.
8. Date of refusal: **24 February 2020**

Yours faithfully

Elsie Buggy

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*As of 2nd December 2019, the Patents Office changed its name to the **Intellectual Property Office of Ireland (IPOI)**.*

Our email addresses have changed to name.surname@ipoi.gov.ie and our email address for general enquiries has also changed to ipinfo@ipoi.gov.ie