

In reply please quote our reference

Your reference : N.A.  
Our reference : 2020/64932001233V  
Date : 04 March 2020  
Writer's direct number : +65 6330 2795

WORLD INTELLECTUAL PROPERTY ORGANIZATION  
INTERNATIONAL REGISTRATIONS DEPARTMENT  
34, CHEMIN DES COLOMBETTES, 1211 GENEVA 20  
SWITZERLAND

Dear Sir/Madam

**NOTIFICATION OF PROVISIONAL REFUSAL OF PROTECTION TO THE INTERNATIONAL BUREAU OF THE WORLD INTELLECTUAL PROPERTY ORGANIZATION ACCORDING TO ARTICLE 5 OF THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS**

**1. Office making the notification:**

Intellectual Property Office of Singapore (IPOS)

**2. International Registration Number:**

1515221

**3. Trade Mark Number(s) issued by the IPOS for this International Registration:**

Trade Mark Number : 40202003608Q

Class Number(s) : 05

**4. Name of holder of the International Registration:**

JILIN GINSENG ASSOCIATION

**5. Ground(s) of the Provisional Refusal:**

**Provisions of Singapore Law:** The relevant provisions of Singapore law are attached.

**5.1 Type of Mark**

Please let us know if you are applying for a Collective Mark or a Certification Mark. In this regard, please note that we do not have a guarantee mark regime in Singapore. Please also note that if the mark is a Certification Mark, the holder should not be involved in the supply of goods or services which are being certified.

**5.2 Section 7(4)(b)**

The mark is objectionable under section 7(4) of the Trade Marks Act (Cap. 332, 2005 Rev. Ed.) as it is of such a nature as to deceive the public as to the geographical origin of the goods.

*Ideas Today. Assets Tomorrow.*

We note that the mark contains a reference to a geographical location in Northeast China. The mark may therefore be objectionable under this ground if the goods are not from the geographical location indicated.

To overcome this objection, the applicant may consider amending the specification of goods to read as "Ginseng **originating from Changbai Mountain, Northeast China**".

No form or fee is required for such an amendment.

**5.3 No Form TM10 (Regulations) filed**

We note that you have not filed the Regulations governing the use of the certification mark. Please do so within 9 months from the application date of your mark (ie by **5 May 2020**) to prevent your trade mark from being treated as withdrawn. The Regulations may be filed online by attaching the Regulations to Form TM10 and paying a fee of \$340.

**5.4. Please refer to Paragraph 5 of the First Schedule for Collective Marks or Paragraph 6 of the Second Schedule for Certification Marks, of the Trade Marks Act for the requisite contents of the Regulations.**

- a) If you are applying for a Collective Mark, the Regulations governing the Collective Mark should cover the following:
- (1) Conditions of membership of the association
  - (2) Persons authorised to use the mark
  - (3) Conditions of use of the mark (if any)
  - (4) Penalties against misuse of the mark (if any)
- b) If you are applying for a Certification Mark, the Regulations governing the Certification Mark should cover the following:
- (1) Persons authorised to use the mark
  - (2) Characteristics to be certified by the mark
  - (3) Testing of characteristics to be certified by the mark
  - (4) Supervision of the use of the mark
  - (5) Fees to be paid for the use of the mark (if any)
  - (6) Dispute resolution procedures

To help you in drafting the Regulations, please refer to the Collective Mark chapter or Certification Mark chapter in our Work Manual at <http://goo.gl/a1CjVx>, in particular Annex A on "Guidelines on the structure and content of the Regulations".

**6. Goods and/or services affected by the refusal:**

This refusal applies to all the goods in Class(es) 05 of the international registration.

**7. Request for review:**

The holder of the international registration may file a request for a review of this refusal with IPOS.

The request for review must comply with the following:

- (a) quote the International Registration number, relevant trade mark number(s), corresponding class number(s) and Singapore reference number(s).
- (b) furnish an address for service in Singapore. The holder may appoint an agent by filing Form CM1.

*Ideas Today. Assets Tomorrow.*

Please note that any form(s) filed with the International Bureau of the World Intellectual Property Organization in response to this refusal, will not be treated as a request for a review of this refusal unless the above has been complied with.

**8. Extension of time:**

The holder may seek an extension of time to request for a review of this refusal by filing Form CM5.

**9. Deadline to observe:**

If the holder does not file a request for review or apply for an extension of time to do so by **4 July 2020**, the application for the refused goods and/or services indicated in paragraph 6 of this refusal will be treated as withdrawn (reinstatable). Please refer to paragraph 10 on reinstatement of an application that is treated as withdrawn (reinstatable).

**10. Reinstatement of an application that is treated as withdrawn (reinstatable):**

If the application for the refused goods and/or services indicated in paragraph 6 of this refusal becomes treated as withdrawn (reinstatable), the holder may request to reinstate the application by filing Form CM13 together with the request for review within six months from the deadline in paragraph 9.

Please note that reinstatement is not automatic. Reinstatement will be allowed only after we have conducted a new conflicting mark search and are satisfied that the mark to be reinstated does not conflict with any trade mark applications filed with IPOS prior to the filing of the required documents.

If the holder also does not request to reinstate the application in time, the application for goods and/or services that are not refused will proceed to publication.

**11. Forms and fees:**

The forms referred to in this provisional refusal and the relevant fees may be found at <https://www.ip2.sg/>.

**12. Further refusal of protection:**

Please note that a further refusal of protection may result from an opposition, which may be filed after the expiry of 18 months from the date on which the Intellectual Property Office of Singapore was notified of the international registration. This applies to all goods and/or services claimed in the international registration.

This refusal is issued by:

Ms Samantha Yio Phui Ling  
Assistant Registrar  
for Registrar of Trade Marks

*Ideas Today. Assets Tomorrow.*

Singapore

*Ideas Today. Assets Tomorrow.*

Intellectual Property Office of Singapore  
1 Paya Lebar Link, #11-03  
PLQ 1, Paya Lebar Quarter  
Singapore 408533

T +65 6339 8616  
F +65 6339 0252  
W [www.ipos.gov.sg](http://www.ipos.gov.sg)

## PROVISIONS OF SINGAPORE LAW

### TRADE MARKS ACT (CHAPTER 332)

#### Section 7 Absolute grounds for refusal of registration

(4) A trade mark shall not be registered if it is -

- (a) contrary to public policy or to morality; or
- (b) of such a nature as to deceive the public (for instance as to the nature, quality or geographical origin of the goods or service).

### TRADE MARKS RULES

#### Rule 63 Filing of regulations

Within 9 months from the date of the application for the registration of a collective mark or a certification mark, the applicant shall file with the Registrar in duplicate -

- (a) Form TM10; and
- (b) a copy of the regulations governing the use of the mark.

#### Rule 64 Filing of amended regulations

- (1) The filing of amended regulations pursuant to paragraph 7(2) of the First Schedule to the Act in relation to a collective mark or paragraph 8 (2) of the Second Schedule to the Act in relation to a certification mark shall be made in Form TM 10.
- (2) Form TM 10 shall be accompanied by a copy of the amended regulations with the amendments shown in red.

### TRADE MARKS ACT (CHAPTER 332) FIRST SCHEDULE COLLECTIVE MARKS

#### Regulations governing use of collective mark

- 5. (1) An applicant for registration of a collective mark must file with the Registrar regulations governing the use of the mark.
- (2) The regulations must specify the persons authorised to use the mark, the conditions of membership of the association and, where they exist, the conditions of use of the mark, including any sanctions against misuse.
- (3) Further requirements with which the regulations have to comply may be imposed by rules made under this Act.

### TRADE MARKS ACT (CHAPTER 332) SECOND SCHEDULE CERTIFICATION MARKS

#### Regulations governing use of certification mark

- 4. A certification mark shall not be registered if the proprietor carries on a business involving the supply of goods or services of the kind certified.
- 6. (1) An applicant for registration of a certification mark must file with the Registrar regulations governing the use of the mark.
- (2) The regulations must indicate who is authorised to use the mark, the characteristics to be certified by the mark, how the certifying body is to test those characteristics and to supervise the use of the mark, the fees (if any) to be paid in connection with the operation of the mark and the procedures for resolving disputes.
- (3) Further requirements with which the regulations have to comply may be imposed by rules made under this Act.

*Ideas Today. Assets Tomorrow.*