

In reply please quote our reference

Your reference : N.A.
Our reference : 2020/6801441376S
Date : 06 May 2020
Writer's direct number : +65 6330 2732

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:**

1517826

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

Trade Mark Number : 40202004981R

Class Number(s) : 03 AND 04

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

ETHOS BRANDS LLC

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

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

5.1 **Section 8(2)(a)**

The mark is objectionable under section 8(2)(a) of the Trade Marks Act (Cap. 332, 2005 Rev. Ed.) which states that a trade mark shall not be registered if because it is identical with an earlier trade mark and is to be registered for goods or services similar to those for which the earlier trade mark is protected, there exists a likelihood of confusion on the part of the public.

The mark is in conflict with the following trade mark(s) in respect of the indicated class(es):

S.No	Cited Trade Mark No	Mark Status	Trade Mark	Subject Class No
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				Objected To
1	T0904723C	Removed (Restoration Possible)	LOLAVIE	03

The earlier mark T0904723C is cited as it is identical to the subject mark. Both marks consist of the distinctive word "Lolavie". The marks are therefore visually and aurally identical.

With regards to the goods claimed, the goods claimed for by the subject mark in Class 03 would overlap with those claimed for by the earlier mark.

Taking the above into consideration, we are of the opinion that there would be a strong likelihood of confusion amongst relevant consumers. It is highly likely that relevant consumers would perceive that the goods offered by the applicant originate from the same economic source as that of the earlier mark's proprietor, or from a source that is economically linked to the earlier mark's proprietor.

5.2 How to overcome our objection under section 8(2)(a)

You may consider the following options:

- (a) Obtain a letter of consent from the cited proprietor; or
- (b) File evidence to show honest concurrent use in Singapore.

In other words, you may file evidence to show that before the date of this application, your mark has been put to use for the goods and/or services applied for at the same time as the cited mark(s) according to honest practices in commercial and industrial standards. This evidence may show that the public is used to distinguishing between your mark and the cited mark(s) and there is no likelihood of confusion in the public.

The evidence should show concurrent use of your mark and the cited mark(s) for a period of at least 5 years before the date of this application. The evidence should be presented by way of a statutory declaration.

For guidance as to how the letter of consent or evidence of honest concurrent use should be presented, please refer to <https://go.gov.sg/tm-sampleLOC> or <https://go.gov.sg/tm-sampleSD> respectively.

6. Goods affected by the refusal:

This refusal applies to all the goods in Class 03 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:

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- (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.

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 **6 September 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:

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

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F +65 6339 0252
W www.ipos.gov.sg

Mr. Lim Zi Yi
Assistant Registrar
for Registrar of Trade Marks
Singapore

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PROVISIONS OF SINGAPORE LAW

TRADE MARKS ACT (CHAPTER 332)

Section 2(1) Interpretation

"earlier trade mark" means –

- (a) a registered trade mark or international trade mark (Singapore), the application for registration of which was made earlier than the trade mark in question, taking account (where appropriate) of the priorities claimed in respect of the trade marks; or
- (b) a trade mark which, at the date of application for registration of the trade mark in question or (where appropriate) of the priority claimed in respect of the application, was a well known trade mark, and includes a trade mark in respect of which an application for registration has been made and which, if registered, would be an earlier trade mark by virtue of paragraph (a) subject to its being so registered.

Section 8 Relative grounds for refusal of registration

(2) A trade mark shall not be registered if because –

- (a) it is identical with an earlier trade mark and is to be registered for goods or services similar to those for which the earlier trade mark is protected; or
- (b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected,

there exists a likelihood of confusion on the part of the public.

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CITED MARK DETAILS

Trade Mark No. T0904723C	LOLAVIE
National	
<p align="center"> Application Type Trade Mark Trade Mark Type Conventional Mark Description of Particular Feature(s) of Mark Converted Application No Application Date 29 April 2009 Mark Status (unless otherwise indicated below) Removed (Restoration Possible) Mark Status Date 30 October 2019 Status Update Date 30 October 2019 Date of Completion of Registration Procedure 15 October 2009 Expiry Date (unless otherwise indicated below) 29 April 2019 Publication Date 31 July 2009 Transformation Application under Madrid Protocol Replacement Application under Madrid Protocol </p>	
Basic Mark on which IA is based	
<p align="center"> International Application No. International Registration No. </p>	
Specification of Goods or Services	
<p align="center"> 1) Class Number Class 03 Goods/Services Body lotions; Body sprays; Body washes; Fragrances and perfumery and non-medicated bath preparations. Class Status Removed (Restoration Possible) Class Expiry Date 29 April 2019 </p>	
Current Applicant or Proprietor Details	
<p align="center"> 1) Name JA Licensing, LLC UEN/Company Code E00383943A Country/Territory of Incorporation United States of America State of Incorporation California Address c/o Brillstein Entertainment Partners, 9150 Wilshire Blvd., Suite 350, Los Angeles, CA 90212, United States of America </p>	
Agent/Correspondence Details	
<p align="center">1) Agent Name DREW & NAPIER LLC</p>	

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 PLQ 1, Paya Lebar Quarter
 Singapore 408533

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Agent UEN/Company Code 200102509E

Representative or C/O Name

Address for Service 10 COLLYER QUAY
#10-01 OCEAN FINANCIAL CENTRE
Singapore 049315

Action Representing For all matters relating to the application, registration/grant, except those matters expressly excluded

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