



**MINISTRY OF LAW AND HUMAN RIGHTS
REPUBLIC OF INDONESIA
DIRECTORATE GENERAL OF INTELLECTUAL PROPERTY**

**NOTIFICATION OF PROVISIONAL REFUSAL OF AN INTERNATIONAL REGISTRATION
DESIGNATING INDONESIA**

Notified to the International Bureau of the World Intellectual Property Organization
In accordance with the Rule 17 (1) of the Common Regulations

1. Office making the notification: Directorate General of Intellectual Property (DGIP), Republic of Indonesia Jl. H.R. Rasuna Said Kav 8-9, Kuningan, Jakarta Selatan, 12940. Phone. (+6221) 57905613 Fax. (+6221) 57905613
2. International Registration Number : 1483831 Date of International Registration : 25 February 2019 Mark : BEAUTY BY SWEDEN
3. Holder of the international registration: Oriflame Cosmetics AB P.O. Box 1095 SE-101 39 Stockholm, Sweden
4. Type of provisional refusal: Provisional refusal based on an ex-officio examination.
5. Information concerning the scope of the provisional refusal: This provisional refusal affects all the goods and/or services.
6. The grounds for refusal: 1. The trademark of this application is not eligible for registration under Article 20(e) of the Trademark Law because this trademark is devoid of any distinctive character.

7. Information relating to make a response to this provisional refusal:

The holder of the international registration may submit to the DGIP a written opinion against this provisional refusal through the intermediary of a representative domiciled in Indonesia within 30 (thirty) days from the date on which this provisional refusal was sent by the International Bureau.

8. Signature by the Office:



Faisal Reza
Examiner

9. Date of the notification:

01 October 2020

10. Corresponding essential provisions of the applicable law:

Please refer Annex 1.

Annex 1

Extract from the Indonesian Trademark Law

Article 2

- (1) Scope of this Law comprises of:
 - a. Trademark; and
 - b. Geographical Indication.
- (2) Trademark as referred to in paragraph (1) section (a) comprises of:
 - a. Trade Marks; and
 - b. Service Marks.
- (3) Protected Marks consist of signs in the form of drawings, logo, names, words, letters, numerals, colour arrangement, in 2 (two) and/or 3 (three) dimensional shape, sounds, holograms, or combination of 2 (two) or more of those elements to distinguish goods and/or services produced by a person or legal entity in the course of trading of goods and/or services.

Article 3

Trademark Rights shall be obtained upon the mark is registered.

Article 4

- (1) Application for registration of trademark is filed by the Applicant or his Proxy to the Minister electronically or non-electronically in Indonesian language.
- (2) Application as referred to in section (1) must contain:
 - a. date, month, and year of Application;
 - b. full name, nationality, and address of Applicant;
 - c. full name and address of Proxy if Application is filed by its Proxy;
 - d. colour(s) if the Trademark being applied for registration use colour elements;
 - e. country and date of basic trademark application if the Application is filed using Priority Right; and
 - f. class of goods and/or services as well as description of types of goods and/or services.
- (3) Application is signed by the Applicant or his Proxy.
- (4) The Application as referred to in section (1) is supplemented by Mark Representation and receipt of payment of prescribed fee.
- (5) Fee of Application for Trademark Registration is considered per class of goods and/or services.
- (6) Where the Mark as referred to in section (4) is in 3 (three) dimensional shape, its Trademark representation supplemented is in the form of characteristics of that Trademark.
- (7) Where the Mark as referred to in section (4) is in the form of sounds, its Trademark representation supplemented is in musical notes and sound recording.
- (8) The Application as referred to in section (1) is required to be supplemented by an affidavit of ownership on the Trademark being applied for registration.
- (9) Further provisions regarding the Application fee as referred to in section (5) shall be regulated by a Government Regulation.

Article 5

- (1) Where an Application is filed by more than one Applicant which are mutually entitled for the pertinent Mark, all Applicant's names are to be mentioned by selecting one address as Applicant's address.
- (2) The Application as referred to in paragraph (1) is signed by one of the Applicants entitled to the Mark and supplemented a written authorization from the representing Applicant.
- (3) The Application as referred to in section (1) of which one or more Applicant is resident of other nationality and legal entity having its domicile overseas is filed through a Proxy.
- (4) Where the Application as referred to in section (1) is submitted through its Proxy, the power of attorney shall be signed by all parties entitled for the Trademark.

Article 6

- (1) Application for more than 1(one) class of goods and/or services may be filed in one Application.
- (2) The Application as referred to in section (1) must mention types of goods and/or services incorporated in the claimed class.
- (3) Further provisions regarding classes of goods and/or services as referred to in section (1) shall further be regulated by a Minister Regulation.

Article 7

- (1) Any Application and any subject matters related to trademark administration filed by an Applicant residing or having permanent domicile outside the territory of the Unitary State of the Republic of Indonesia must be filed through a Proxy.
- (2) The Applicant as referred to in section (1) is required to state and choose an address of its Proxy as his legal domicile in Indonesia.

Article 14

- (1) The Minister shall publish the applications in the Trademark Official Gazette within no later than 15 (fifteen) Days as from the Filing Date as referred to in Article 13.
- (2) The Publication of application in the Trademark Official Gazette as referred to in section (1) lasts for 2 (two) months.
- (3) The Trademark Official Gazette as referred to in section (2) shall be published periodically by the Minister in electronic and/or non-electronic media.

Article 15

Publication shall contain:

- a. Name and address of Applicant, including the Proxy if an Application is filed by a Proxy;
- b. Class and types of goods and/or services;
- c. Filing Date;
- d. name of the country and the Filing Date of the first application for registration where the Application is filed using Priority Rights; and
- e. Mark Representation, including description on the colours and if the representation uses foreign language and/or letters other than

Latin and/or numerals which are not commonly used in Indonesian, shall be attached with the translation in Indonesian, Latin letters, or numerals which are commonly used Indonesian, its phonetic in Latin.

Article 16

- (1) Within a period of publication as referred to in Article 14, any parties may file an opposition in written to the Minister in respect of the Application being filed and is subject to payable fee.
- (2) The opposition as referred to in section (1) may be filed provided that there is adequate reasons supported by evidence that the Mark being applied cannot be registered or to be refused in accordance to this Law.
- (3) Where there is an opposition as referred to in section (1), within no later than 14 (fourteen) Days as from the date of receipt of opposition, copy of the letter stating the opposition shall be sent to the Applicant or his Proxy.

Article 20

A Mark constitutes to be non registrable if:

- a. in contradiction to the state ideology, laws and regulations, morality, religion, decency, or public order;
- b. similar to, related to, or merely mention the goods and/or services being applied for registration;
- c. contain any elements which may deceive the public in respect to its origin, quality, type, size, variety, intended use of goods and/or services being applied for registration or constitute a name of protected plant variety for similar goods and/or services;
- d. contain description that does not correspond to quality, or efficacy of produced goods and/or services;
- e. devoid any distinctive character; and/or
- f. constitute a general name and/or public sign.

Article 21

- (1) An application shall be refused if the trademark is similar or identical with:
 - a. a prior registered trademark of other party or earlier trademark application in respect of similar goods and/or services;
 - b. Wellknown mark of other party for similar goods and/or services;
 - c. Wellknown mark of other party for different goods and/or services compelling certain requirements; or
 - d. a Registered Geographical Indication.
- (2) An application is to be refused if the trademark:
 - a. constitutes or similar to name or initial of a wellknown individual, photograph, or name of legal entity owned by other person, unless under a written consent from its proprietary;
 - b. constitute as duplication or similar to name or initial, flag, symbol or State emblem, or both national and international agency, unless under a written consent from the authorities; or
 - c. constitute as duplication or similar to official signs or seal or stamp used by a country or Government agency, unless under a written consent from the authorities.
- (3) An application shall be refused if it is submitted in bad faith.
- (4) Further provisions regarding the refused Trademark Application as referred to in section (1) point a to point c shall be regulated by a Minister Regulation.

Article 22

To that registered Trademark which becomes a generic name, each Person may file for Trademark Application by using that generic name plus other word provided that it contains distinctive elements.

Article 23

- (1) Substantive Examination is an examination carried out by an Examiner to an Application for registration of trademark.
- (2) Any oppositions and/or defenses as referred to in Article 16 and 17 are to be considered during the substantive examination as referred to in section (1).
- (3) Where there is no opposition within a period of no later than 30 (thirty) Days as from the expiration date of publication, substantive examination is to be carried out to the Application.
- (4) Where there is opposition within a period of no later than 30 (thirty) Days as from the expiration date of time limit of submitting a defense as referred to in Article 17, substantive examination is to be carried out to the Application.
- (5) The substantive examination as referred to in section (3) and section (4) is to be completed within a period of no later than 150 (a hundred and fifty) Days.
- (6) Where it is deemed necessary to carry out substantive examination, experts in trademark examination who are not examiners may be specified.
- (7) Results of substantive examination carrying out by the experts in trademark examination who are not examiners as referred to in section (6), may be regarded the same as the result of substantive examination carrying out by Examiner, pursuant to approval from the Minister.
- (8) Further provisions regarding the expert in trademark examiners who are not examiners as referred to in section (6) shall further be regulated by a Minister Regulation.

Article 24

- (1) Where an Examiner decides to approve the registration, the Minister shall:
 - a. Register the Trademark;
 - b. Notify the Applicant or his Proxy regarding the registration of his Trademark;
 - c. Issue a Trademark certificate; and
 - d. Publish the Trademark registration in Official Gazette, electronically or non-electronically.
- (2) Where an Examiner decides that an Application cannot be registered or to be refused, the Minister shall notify the Application or his Proxy in written with reasons thereof.
- (3) Within a period of time no later than 30 (thirty) Days as from the postal Date of the notification as referred to in section (2), the Applicant or his Proxy may submit response in written with reasons thereof.
- (4) Where the Applicant or his Proxy does not submit any responses as referred to in section 3), the Minister shall refuse the Application.
- (5) Where the Applicant or his Proxy submits the responses as referred to in section (3) and the Examiner decided to approve the response, the Minister shall exercise provisions as referred to in section (1).
- (6) Where the Applicant or his Proxy submits responses as referred to in section (3) and the Examiner decided to reject the response,

the Minister shall refuse the Application.

- (7) The refusal as referred to in section (4) and section (6) is notified in written to the Applicant or his Proxy with reasons thereof.
- (8) Where there is opposition as referred to in Article 16, the Minister may send copy of notification for registration or refusal to the party filing for opposition.

Article 28

- (1) Appeal petition may be filed against a refused Application based on the grounds as referred to in Article 20 and/or Article 21.
- (2) Appeal petition is filed in written by its Applicant or his Proxy to the Trademark Appeal Commission with a copy to the Minister and subject to a payable fee.
- (3) Appeal petition fully describes any objections and reasons thereof against application refusal.
- (4) The reasons as referred to in section (3) shall not constitute correction or revision for the refused Application.

Article 29

- (1) Appeal petition against a refused Application shall be filed within a period of no later than 90 (ninety) Days as from the Mailing Date of the notification for refusal.
- (2) Where the appeal petition as referred to in section (1) is not filed, the refusal is deemed to be accepted by the Applicant.

Article 30

- (1) Decision of Trademark Appeal Commission is released within no later than 3 (three) months as from the date of receipt of appeal petition.
- (2) Where the Trademark Appeal Commission grants the appeal petition, the Minister issues and gives the Trademark certificate to the Applicant or his Proxy as referred to in Article 24.
- (3) Where the Trademark Appeal Commission refuses the petition, the Appellant or his Proxy may file a lawsuit against refusal for appeal petition to the Commercial Court within 3 (three) months as from the date of receipt of the decision for refusal.
- (4) Against the Decision from the Commercial Court as referred to in section (3), a cassation may be submitted.