

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

Date of Notification: 03 March 2021

International Registration No: 1574744
Mark: Dermapen
Holder: Biosoft (Australia) Pty Ltd of Australia

Notification of the Intellectual Property Office of Ireland of Total 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 10(2)

There exists a likelihood of confusion on the part of the public between the mark and the following earlier mark(s):

Pending European Union Trade Mark Application No:W01542201

Mark:DERMAPEN

Applicant:DERMA PEN IP HOLDINGS, LLC

1975 West Bay Drive, Suite 301

Largo FL 33770 (US)Date of Application:19/06/2019

Priority Date: 15/02/2019

Class 3 : Non-medicated creams for topical application to the skin; sunscreen; body lotions; moisturizing body lotions; skin lotions; skin masks for cosmetic purposes; non-medicated creams containing hyaluronic acid; non-medicated skin serums; non-medicated creams containing vitamin C; non-medicated creams containing peptides; non-medicated serums for scars, cosmetics.

Class 10 : Cosmetic micro-needling devices; microneedling devices for non-surgical treatments, therapeutic devices; skin treatment devices using multiple needles in a vibrating method for performing skin treatment procedures; microneedling tips.

Class 35 : Online wholesale and retail services related to cosmetic products, cosmetics, beauty products and devices; retail and wholesale services for micro-needling devices, microneedling products and sales (terms considered

too vague in the opinion of the International Bureau – Rule 13 (2) (b) of the Regulations).

Class 39 : Online and wholesale distribution of cosmetic products, cosmetic and beauty products, devices . (terms considered too vague in the opinion of the International Bureau – Rule 13 (2) (b) of the Regulations).

Class 41 : Education and training services including cosmetic and aesthetics educational and training service, workshops, seminars, courses live and online and downloadable training in the field of cosmetic and aesthetics educational and training service, workshops, seminars live, online and downloadable; online training, training, workshops, courses for topical sales, microneedling products and sales and instructional courses for microneedling products, sales, and training (terms considered too vague in the opinion of the International Bureau – Rule 13 (2) (b) of the Regulations).

Class 44 : Cosmetic and skin services, namely microneedling treatment services, health and cosmetic skin care services. (terms considered too vague in the opinion of the International Bureau – Rule 13 (2) (b) of the Regulations).

2. This refusal is in respect of all of the goods for which protection is sought.
3. The holder may make representations in writing, or may request an extension of time for doing so, not later than **02 June 2021**. A request for an extension of time received after that date may be granted at the discretion of the Controller.
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.
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 No. 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. Date of Refusal: 03 March 2021

Yours faithfully

Paula Murphy

Paula Murphy
Trade Mark and Design Examination Division
Mobile: 087 1138520
tmexam@ipoi.gov.ie