



MADRID PROTOCOL

Total Provisional Refusal of Protection

(Rule 17(1) of the Regulations under the Protocol)

I. Office making the notification:

Canadian Intellectual Property Office

II. Number of the international registration:

1507144

III. Name of the holder:

Mudanjiang Hengfeng Paper Co.LTD

IV. Information concerning the type of provisional refusal:

Total provisional refusal based on an ex officio examination

V. Information concerning the scope of the provisional refusal:

Total provisional refusal affects all the goods and/or services.

VI. Grounds for refusal [(where applicable, see item VII)]:

This examiner's report concerns the above identified Protocol application. To avoid abandonment proceedings, a proper response must be received by this office by November 3, 2021. All correspondence respecting this Protocol application must indicate the file number.

This Protocol application has been examined under the provisions of the Trademarks Act and Trademarks Regulations.

The trademark is considered to be the phonetic equivalent of HEMP ROLL and is therefore clearly descriptive or deceptively misdescriptive of the character or quality of the associated goods and/or services. Specifically, the trademark clearly describes that the goods and/or services, namely tissue paper for makeup remover and cigarette paper are made of hemp and are in roll format. HEMP and ROLL are defined as follows:

hemp:

"the fiber of hemp" (Source: <https://www.merriam-webster.com/dictionary/hemp>)

roll:

"something that is rolled up into a cylinder or ball or rounded as if rolled" (Source: <https://www.merriam-webster.com/dictionary/roll>)

Alternatively, if the goods and/or services do not have this feature, trait, characteristic, or quality, the trademark is considered to be deceptively misdescriptive.

Therefore, in view of the provisions of paragraph 12(1)(b) of the Trademarks Act, the trademark does not appear registrable.

The word "character" means a feature, trait or characteristic of the goods and services. The test of whether a trademark is clearly descriptive considers the immediate first impression of the average Canadian user, purchaser, or consumer of the associated goods and services.

One of the most important purposes of paragraph 12(1)(b) of the Trademarks Act is to protect the right of all traders to use apt descriptive language. The courts have recognized that descriptive words are the property of all and cannot be appropriated by one person for their exclusive use since this would give them an unfair advantage over competitors in the same trade.

Moreover, pursuant to paragraph 37(1)(d) of the Trademarks Act, it appears that the trademark is not distinctive.

The Registrar's preliminary view is that the trademark is not inherently distinctive. In particular, trademarks that are considered to be clearly descriptive or deceptively misdescriptive of the character or quality of the associated goods and/or services pursuant to the provisions of paragraph 12(1)(b) of the Trademarks Act are also considered to be not inherently distinctive.

Pursuant to paragraph 32(1)(b) of the Act, the applicant may wish to furnish the Registrar with evidence establishing that the trademark was distinctive at the filing date of the application for its registration. Alternatively, the applicant may wish to provide, in writing, information which would persuade the Registrar to withdraw the objection that the trademark is not, on a preliminary view, inherently distinctive.

Any comments you may wish to submit in writing will be considered.

If the applicant has any specific questions in respect of this Office action, please contact the assigned examiner. Please note that for general inquiries, including assistance with filing of the revised Protocol application, queries about the status of an application or receipt of correspondence, you may contact our Client Service Centre toll free at 1-866-997-1936.

Yours truly,

Dana Lee
Examination Section
819-639-0073
fax: 819-953-2476

VII. Information relating to an earlier mark:

(i) Filing date and number, and, if any, priority date:

Not applicable

- (ii) Registration date and number (if available):

Not applicable

- (iii) Name and address of the owner:

Not applicable

- (iv) Reproduction of the mark:

Not applicable

- (v) List of the relevant goods and/or services (this list may be in the language of the earlier application or registration):

Not applicable

VIII. Corresponding essential provisions of the applicable law:

Paragraph 12(1)(b) of the Trademarks Act

Paragraph 32(1)(b) of the Trademarks Act

Paragraph 37(1)(b) of the Trademarks Act

Paragraph 37(1)(d) of the Trademarks Act

IX. Information relating to the possibility to request a review or file an appeal:

- (i) Time limit for requesting review or appeal:

2021-11-03

- (ii) Authority to which such request for review or appeal should be made:

Registrar of Trademarks

- (iii) Whether the request for review or appeal has to be filed in a specific language and/or through the intermediary of a representative whose address is within the territory of the Contracting Party:

Correspondence must be in French or English

- (iv) Other requirements, if any:

Not applicable

X. Signature or official seal of the Office making the notification:

Registrar of Trademarks

XI. Date of notification to the International Bureau:

2021-05-03



3 mai/May 2021
Votre référence Your File

Notre référence Our File
2004292
Numéro EI IR Number
1507144

HEMPROLL

Mudanjiang Hengfeng Paper Co.LTD
11 hengfeng road, Yangming district,
Mudanjiang city
Heilongjiang province
CHINA

RE: Trademark: HEMPROLL
Applicant: Mudanjiang Hengfeng Paper Co.LTD

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