



**INTELLECTUAL PROPERTY
OFFICE OF THE PHILIPPINES**
BUREAU OF TRADEMARKS
Intellectual Property Center, 28 Upper
McKinley Rd., McKinley Hill Town Center, Fort
Bonifacio, Taguig City 1634, Philippines
Website: <http://www.ipophil.gov.ph>

DOCUMENT NO.	2021/103684
DATE OF NOTIFICATION	Pls. refer to the digital signature date

The International Bureau

World Intellectual Property Organization
34, chemin des Colombettes
1211 Geneva 20
Switzerland

**NOTIFICATION OF A PROVISIONAL REFUSAL OF PROTECTION
OF AN INTERNATIONAL REGISTRATION DESIGNATING
THE PHILIPPINES
Rule 17(1)**

International Registration No: **1574744**

IR Date/Subsequent Designation Date: 11 November 2020

Holder: Biosoft (Australia) Pty Ltd [AU]

Mark: Dermapen

Examiner: NELSON I. AREVALO

Supervisor: RUTH U. TAN

The mark has been examined, but the issues below prevent the Intellectual Property Office of the Philippines (IPOP HL) from granting the registration of the mark for **all the goods and/or services**.

Registrability Issue(s):

The mark nearly resembles a registered mark belonging to a different proprietor or a mark with an earlier filing or priority date, and the resemblance is likely to deceive or cause confusion (IP Code, Sec. 123.1[d][ii]). See attachment(s).

SEC. 123. Registrability

123.1. A mark cannot be registered if it:

(d) Is identical with a registered mark belonging to a different proprietor or a mark with an earlier filing or priority date, in respect of:

- (i) The same goods or services, or
- (ii) Closely related goods or services, or
- (iii) If it nearly resembles such a mark as to be likely to deceive or cause confusion

RULE 102. Registrability. — A mark cannot be registered if it:

(d) Is identical with a registered mark belonging to a different proprietor or a mark with an earlier filing or priority date, in respect of:

- (i) The same goods or services, or
- (ii) Closely related goods or services, or
- (iii) If it nearly resembles such a mark as to be likely to deceive or cause confusion

Information relating to subsequent procedure:

The applicant must respond in writing to this refusal within two (2) months from the digital signature date found at the end of this notice. The response must be filed by a duly authorized representative with a local address in the Philippines (the list of agents in the Philippines is available on the IPOP HL website). Within the two (2) month-period, the applicant may request an extension of time of another two (2) months to respond to this provisional refusal. The request for extension must be filed by the applicant's local representative in the Philippines. The request for extension

can only be made once.

Failure to respond to the provisional refusal, submission of an incomplete response, or failure to request an extension of time to respond within the two-month period will result in the abandonment of the application. In case of abandonment, the applicant has three (3) months from the abandonment date (counted from the lapse of the period to respond) to request the revival of the application. Failure to revive an abandoned application will result in its final abandonment and the confirmation of the total provisional refusal.

If the applicant is able to overturn the objections raised by the Examiner in the provisional refusal, the mark will be published for purposes of opposition. If no opposition to the registration of the mark is filed, the Office will issue a statement of grant of protection.

All responses or communications should be addressed to: THE DIRECTOR OF TRADEMARKS, Intellectual Property Office of the Philippines, 14/F Intellectual Property Center, No. 28 Upper McKinley Road, McKinley Hill Town Center, Fort Bonifacio, Taguig City 1634, Philippines.

Additional information:

The IPOPPL requires the submission of the Declaration of Actual Use (DAU) within three (3) years from the date of international registration or the date of subsequent designation, as the case may be; within one (1) year from the fifth anniversary of the date of grant of protection of the mark; within one (1) year from the renewal date; and within one (1) year from the fifth anniversary of each renewal. The provisions governing the filing of the DAU are contained in the Trademark Regulations of 2017.

Cited mark(s)

Int.Reg.No.	1542201
Filing Date	19 June 2019
Applicant	DERMA PEN IP HOLDINGS, LLC - 1975 West Bay Drive, Suite 301 Largo FL 33770, United States of America
Trademark	DERMAPEN DERMAPEN
Priority Claim	88304173 15 Feb 2019 US
Goods / Services	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 and procedures (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, health and cosmetic skin care services, and

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