Department of Intellectual Property of Thailand
563 Nontaburi Road, Bangkrasor, Muang Nonthaburi,
Nonthaburi 11000, Thailand

MF 3A

NOTIFICATION OF TOTAL PROVISIONAL REFUSAL OF PROTECTION

Total Provisional Refusal of Protection (Rule 17(1) of the Common Regulations)

I. Office making the notification:

Department of Intellectual Property of Thailand

II. Number of the international registration:	National application No.
1522994 (ENN,12/2020)	200116719

III. Name of the holder:

Anhui Panpan Foods Co., Ltd.

IV. Information concerning the type of provisional refusal:

- [x] Total provisional refusal based on an ex officio examination
- [ ] Total provisional refusal based on an opposition
- [ ] Total provisional refusal based on both an ex officio examination and an opposition

Where the refusal is based on an opposition, please indicate the name and address of the opponent:

(i) Name of the opponent:

(ii) Address of the opponent:

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)]:

- The following items goods/services in this application do not comply with the Thailand's Trademarks Act (No.3) B.E. 2559, section 9 because of broad/vague identification.
The applicant shall clarify with more concise or precise words/texts, but not to broaden beyond those terms in the original application.
The amendment of the list of goods/services must be filed with Kor.06 form by the list of all the goods and services requested for protection in Thai (English) and please amend only the list of goods and services that have been specified.
Class 5
"medicines for human purposes; nutritional supplements; traditional Chinese medicine bag, portable, filled"

Possible example: nutritional supplements prepared from royal jelly; medicines for the treatment of stomatitis; chinese traditional medicinal herbs; etc.

Class 32
"non-alcoholic beverages; pure water (drinks)"

Possible example: fruit extracts, non-alcoholic; water [beverages]; etc.

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

(i) Time limit for requesting review or appeal (ninety days from the date of provisional refusal):

December 13, 2021

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

Trademark Board, Department of Intellectual Property of

(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:

The appeal, amend or comply with the registrar's order shall be appoint an representative in Thailand and use Thai language. The representative list is available at the following address

https://www.ipthailand.go.th/th/component/zoo/item/list-of-law-relevant-representatives-in-thailand.html

Please note that any form(s) filed with the International Bureau of the World Intellectual Property Organization in response to this refusal, will not bt treatd as a request for a review of this refusal unless the above has been complied with.

VIII. Date of the provisional refusal was pronounced:

September 14, 2021

IX. Corresponding essential provisions of the applicable law:

See the relevant provisional of Thai trademark law and ministerial regulation are attached.

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

Mr.Khachaphorn Thiengtrakul
Authorized Officer's Signature
Email: madrid_dip@ipthailand.go.th

EXTRACT FROM TRADEMARK ACT B.E. 2534
AMENDED BY TRADEMARK ACT (NO. 2) B.E. 2543
AND TRADEMARK ACT (NO. 3) B.E. 2559

Section 6:

To be registrable, a trademark must
(1) be distinctive;
(2) not be prohibited under this Act;
(3) not be the same as or similar to a trademark registered by another person.

Section 7:

A distinctive trademark is a trademark which enables the public or users to distinguish the goods with which the trademark is used from other goods. A trademark having or comprising any of the following essential characteristics shall be deemed distinctive.

(1) a personal name, a surname of a natural person not being such by its ordinary signification, a full name of a juristic person in accordance with the law on such matter or a tradename represented in a special manner and having no direct reference to the character or quality of the goods;

(2) a word or phrase having no direct reference to the character or quality of the goods and not being a geographical name prescribed by the Minister;

(3) an invented word;

(4) a stylized letter or numeral;

(5) a combination of colors represented in a special manner;

(6) the signature of the applicant or the predecessor in his or her business or the signature of another person with his or her permission;

(7) the representation of the applicant or of another person with his or her permission or of a deceased person with the permission of his or her ascendants, descendants and spouse, if any;

(8) an invented device;

(9) a picture having no direct reference to the character or quality of the goods and not being a picture of a map or a geographical site prescribed by the Minister;

(10) a shape which is not the natural form of the goods or a shape which is not necessary to obtain a technical result of the goods or a shape which does not give value to the goods;

(11) a sound having no direct reference to the character or quality of the goods or a sound which is not the natural sound of the goods or a sound which does not result from the functioning of the goods.

A trademark having no characteristics under paragraph two (1) to (11), if used on goods which have been widely sold or advertised in accordance with the rules prescribed in a notification by the Minister and if it is proved that the rules have been duly met, shall be deemed distinctive.

Section 8:

Trademarks having or consisting of any of the following characteristics shall not be registrable:—

(1) state arms or crests, royal seals, official seals, Chakkri emblems, emblems and insignia of the royal orders and decorations, seals of office, seals of ministries, bureaus, departments or provinces;

(2) national flags of Thailand, royal standard flags or official flags;

(3) royal names, royal monograms, abbreviations of royal names or royal monograms, or

(4) representations of the King, Queen or Heir to the Throne;

(5) names, words, terms or emblems signifying the King, Queen or Heir to the Throne or members of the royal family;

(6) national emblems and flags of foreign states, emblems and flags of international organizations, emblems of head of foreign states, official emblems and quality control and certification of foreign states or international organizations, names and monograms of foreign states or international organizations, unless permission is given by the competent officer of the foreign state or international organization;

(7) official emblems and emblems of the Red Cross or appellations “Red Cross” or “Geneva Cross”;

(8) a mark identical with or similar to a medal, diploma or certificate or any other mark awarded at a trade exhibition or competition held by the Thai government or a Thai government agency for public enterprise or any other government organ of Thailand, a foreign government or international organization unless such medal, diploma, certificate or mark has been actually awarded to the applicant for goods and is used in combination with the trademark;

(9) any mark which is contrary to public order, morality or public policy;

(10) a mark registered or not, which is identical with a well-known mark as prescribed by the Ministerial Notifications, or so similar thereto that the public might be confused as to the owner or origin of the goods;

(11) trademarks similar to those under (1) (2) (3) (5) (6) or (7);

(12) geographical indications protected under the law on geographical indications;

(13) other trademarks prescribed by the Ministerial Notifications.

Section 9:

An application for registration of a trademark may be made for specific goods in one class or in different classes but the particular kinds of goods for which protection is sought shall be clearly specified.

The classification of goods shall be as prescribed by the Ministerial Notifications.

Section 11:

Applications for trademark registration shall comply with the rules and procedures prescribed in the Ministerial Regulations.

In cases where Thailand acceded to an international convention or agreement concerning trademark protection, the trademark application which is in compliance with the requirement of such international convention or agreement shall be deemed to be a trademark application under this Act.

Section 13:

Subject to Section 27, the Registrar shall not grant registration to a trademark applied for if he finds that:

(1) it is identical with a trademark registered by another person for use with goods in the same class or in different classes found to be of the same character

(2) it is so similar to a trademark registered by another person that the public might be confused or misled as to the ownership or origin of the goods for use with goods in the same class or in different classes

Section 15:

If, in the opinion of the Registrar,

(1) any unessential part of a trademark applied for is not registrable under Section 6, or

(2) any application for registration is contrary to Section 9 or Section 10 or is not in accordance with the rules and procedures prescribed in the Ministerial Regulations issued under Section 11,

The Registrar shall order the applicant to amend the application within sixty days from the date of receipt of the order and shall notify the applicant in writing without delay.

Section 16:

If, in the opinion of the Registrar, the entire trademark or any essential part thereof is not registrable under Section 6, the Registrar shall refuse registration and shall, without delay, in writing notify the applicant of the order giving the grounds therefor.

Section 17:

If, in the opinion of the Registrar, a trademark considered as a whole is registrable under Section 6 but contains one or more parts which are common to the trade for some types or classes of goods such that no applicant should have exclusive right thereto or which are not distinctive, the Registrar shall make either of the following:

(1) order the applicant to disclaim exclusive right to such part or parts of the trademark within sixty days from the date of receipt of the order;

(2) order the applicant to enter such other disclaimers as the Registrar finds it necessary to define the rights of the owner of such trademark within sixty days from the date of receipt of the order.

For the purpose of implementing the provisions of the first paragraph, the Registrar shall have the power to declare by notification what is common to the trade with respect to certain types or classes of goods.

The Registrar shall, without delay, in writing notify the applicant of any order under the first

Section 18:

The applicant shall be entitled to appeal the order of the Registrar under Section 15, Section 16 and Section 17 to the Trademark Board within sixty days from the date of receipt of the Registrar's notification. Decisions of the Board shall be final.

Section 19:

If the applicant fails to appeal under Section 18 paragraph one and does not comply with the order of the Registrar under Section 15 or Section 17, as the case may be, or if the applicant appeals under Section 18 paragraph one but fails to comply with Section 18 paragraph two, the application shall be

Section 20:

Where several applicants file applications for registration of trademarks, if the Registrar finds that those trademarks have any of the following characteristics, he shall proceed with the application first filed and inform the subsequent applicants in writing to await the processing of the application filed before:

(1) the trademarks are identical whether for use with goods in the same class or in different classes found by the Registrar to be of the same character

(2) the trademarks are so similar as to cause public confusion as to the ownership or origin of goods, whether for use with goods in the same class or in different classes found by the Registrar to be of the same character.

Where the trademark first filed is not registered, the Registrar shall proceed with the application next filed and inform the applicant of that application and other applicants without delay.

Section 29:

When an application for registration of a trademark is considered acceptable, the Registrar shall be order the application to be published.

Paragraph two (repealed)

The publication of applications shall be in accordance with the procedures prescribed in the Ministerial Regulations.

Section 35:

Upon publication of a trademark application under Section 29, any person seeing that he or she has better title to trademark than the applicant, or that the trademark is not registrable under Section 6, or that the application is not in conformity with the provisions of this Act, may file an opposition, with grounds thereof, with the Registrar within sixty days from the date of publication under Section 29.

Oppositions under the first paragraph shall comply with the rules and procedures prescribed in the Ministerial Regulations.

Section 45:

A trademark registered without limitation of color shall be deemed to be registered for all colors.

Section 79/6:

When an international application requesting protection in the Kingdom is notified by the International Bureau, it shall be deemed an application in the Kingdom and the Registrar shall proceed with it under this Act.

Where the Registrar finds that the trademark under paragraph one lacks registrable characteristics or the application does not conform with the provisions under this Act, the Registrar shall refuse registration and inform the International Bureau, with reasons, within the time and in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulations.

Where the Registrar sees that there may be an opposition lodged beyond the time prescribed in the Ministerial Regulations under paragraph two, he shall notify the International Bureau in writing within the time and in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulations. Where there is an order refusing registration which results from the opposition, the Registrar shall notify the International Bureau in writing, with reasons for the opposition, within the time and in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulations.

Absent any notification whatsoever to the International Bureau under paragraph two or paragraph three, it shall be deemed that the Registrar allows registration of the trademark without need to publish the mark under Section 29.

The trademark, once registration is granted, shall enjoy the same protection as that afforded to a

Section 82:

The applicant for registration of a certification mark, in addition to complying with the provisions on registration of trademarks, shall:—

(1) submit the regulations on use of the certification mark together with the application for registration and

(2) demonstrate an ability to certify the characteristics of the goods or services as provided in the regulations under (1).

The regulations under (1) shall indicate the origin, composition, method of production, quality or other characteristics which are to be certified including the rule, procedures and conditions for authorizing use of the certification mark.

Clause 3:

Communications between an applicant and the Department of Intellectual Property shall be in Thai except that the International Bureau's notification to the applicant in Thailand for protection in other contracting parties shall be in English.

Clause 18:

As for examination of an international application, the same rules and procedures as those of a national application shall apply unless stipulated otherwise in this Ministerial Regulation.

Clause 20:

If that the Registrar considers that the mark applied for protection in Thailand is not registrable or that the application for registration does not conform with the provisions of the trademark law, the Registrar shall issue a notice of refusal and inform the International Bureau thereof before the expiry of the period of eighteen months from the date of the International Bureau's notification of designation of Thailand.

To amend the application or comply with the Registrar's notice, appeal or take any action as per the Registrar's notice under Paragraph one, the applicant shall appoint an agent in Thailand and proceed as aforementioned within sixty days from the date of the applicant 's deemed receipt of the Registrar's notice under Clause 33.

Clause 25:

In case that the applicant does not complied with the Registrar's notice and does not appeal against such order within the prescribed period or that the applicant does not comply with the Registrar's notice in full, the Registrar shall further proceed as per the documents as available and may issue any of the following notices:

(1) In case of the application containing some terms of goods in relation to which the mark is registrable, the Registrar shall order publication of the application for such registrable terms.

(2) In case of the application not registrable, the Registrar shall order refusal of the said application and shall notify it to the International Bureau as well as the applicant's agent in Thailand, as the case may be. The Registrar shall also dismiss the application from the register.

Clause 33:

The notification of grant of protection, the notification of opposition, the notification of refusal, the notification of opposition decision, the notification of order, the notification of decision or the notification of court judgement, the certificate of registration, the notification of summons or any other notifications to the International Bureau, the applicant or the trademark owner shall be in the forms as notified in the Director General.

When the notification is issued in accordance with Paragraph one and the period of thirty days expires, the applicant or the trademark owner shall be deemed to have received such notification.

In case the International Bureau notifies that there are irregularities and such irregularities are caused by the Department of Intellectual Property, Ministry of Commerce, the Registrar shall cancel previous notifications and orders (if any) and issue new notifications and orders. The period of time under Paragraph two shall be counted from the date of sending new notifications.

Notice :

These are unofficial translations. Only the original Thai texts of Laws have legal effect.