

Notification of Total Provisional Refusal based on an Ex Officio Examination (to WIPO)

Pursuant to Rule 17(2) of the Common Regulations under the Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to that Agreement.

I.	Office making the notification:	patent trademark design Norwegian Industrial Property Office 
II.	Number of the international registration: 1574744 (National application no.: 202101691) Date of subsequent designation (if any): (yyyy.mm.dd)	
III.	Name of the holder: Biosoft (Australia) Pty Ltd Representation of the mark: Dermapen	
IV.	Total provisional refusal based on an <i>ex officio</i> examination	
V.	Provisional refusal for all the goods and/or services N/A	
VI.	Grounds for refusal: <i>Absolute grounds:</i> Trademark Act Section 14 - The trademark is considered to be devoid of any distinctive character and/or it can be used in trade to designate the goods in question. It consists of signs or indications, which may serve to describe significant characteristics of the goods claimed in the international registration. The mark consists of the term DERMAPEN. The word DERMA is the latin word for «skin» and PEN is commonly used in the medical field e.g. for medical products with a pen-shape with a needle used for e.g. injections. When applied to «medical devices for microneedling and dermabrasion» it is not likely that the average consumer will perceive the mark as a badge of origin, but rather as the nature of the goods, namely that they are a pen-shaped device intended for skin treatments. Consequently, the mark must be refused.	
VII.	Corresponding essential provisions of the applicable law	

See the relevant provisions of the Norwegian Trademarks Act regarding the grounds of this provisional refusal on our home page:

<https://www.patentstyret.no/en/services/trademarks/rules-and-regulations-trademarks/trademarks-act/>

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

- (i) Time limit for requesting review or appeal: (yyyy.mm.dd) **2021.12.15**
- (ii) Authority to which such request for review or appeal should be made:

The Norwegian Industrial Property Office

PO Box 4863 Nydalen, NO-0422 Oslo, Norway

Telephone: +47 22 38 73 00

Telefax: +47 22 38 73 01

E-mail: post@patentstyret.no

How to proceed:

The holder of the registration may request a review of the provisional refusal. The Norwegian Industrial Property Office must receive the request no later than 3 months from the date of this provisional refusal (The time limit is indicated under point VIII). Such request must provide an address of correspondence and be filed in Norwegian, Danish, Swedish or English. The Norwegian Industrial Property Office will respond in Norwegian. Please note that if The Norwegian Industrial Property Office, either subsequent to review or appeal, accept the designation of Norway, a post grant opposition may be filed against the mark within 3 months from the publication of the mark.

If the holder does not respond to this provisional refusal within the time limit, the international registration shall be considered abandoned in Norway for the goods/services that are excluded (Trademark Act Section 70 and 23). The international registration shall be resumed if the holder, within two months from the expiration of the time limit responds to the provisional refusal and pays the stipulated fee (NOK 550,-). Please note that The Norwegian Industrial Property Office does not send any notifications to the holder that the international registration is abandoned in Norway.

IX. Signature by the office:

THE NORWEGIAN INDUSTRIAL PROPERTY OFFICE

Hilde Zander

X. Date of provisional refusal: (yyyy.mm.dd) **2021.09.15**