



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>

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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: 1613195	IR Date/Subsequent Designation Date: 13 August 2021
Holder: NAVA 1872 PTE. LTD. [SG]	
Mark: THE 1872 CLIPPER TEA CO.	
Examiner: MARISSA R. BAGAN	
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):

1. 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

2. The applicant should submit a copy of the foreign registration or provide information in the response to this provisional refusal on whether or not the mark has been registered in the foreign country. Section 131 of the IP Code requires that the mark be registered in the foreign country of first filing before the mark subject of this application can be registered by the IPOP HL.

SEC. 131. Priority Right

131.1. An application for registration of a mark filed in the Philippines by a person referred to in Section 3, and who previously duly filed an application for registration of the same mark in one of those countries, shall be considered as filed as of the day the application was first filed in the foreign country.

131.2. No registration of a mark in the Philippines by a person described in this section shall be granted until such mark has been registered in the country of origin of the applicant.

RULE 202. Priority Right; Basis for Claiming Priority Right. — An application for registration of a mark filed in the Philippines by a person referred to in Rule 201, and who previously duly filed an application for registration of the same mark in one of those countries, shall be considered as filed as of the day the application was first filed in the foreign country.

No registration of a mark in the Philippines by a person described in this Rule shall be granted until such mark has been registered in the country of origin of the applicant. However, the mark may be allowed for publication for the purpose of opposition, but such publication shall be withheld until it has been ascertained that the mark has been registered in the country of origin of the applicant. The country of origin of the applicant is the country in which the applicant is a national, domiciled, or has a bona fide and effective industrial or commercial establishment.

3. The applicant should disclaim the exclusive right to use the numbers “1872” and the words “TEA” and “CO.” apart from the mark sought to be registered for being generic and descriptive of the kind, quality, features and other characteristics of the goods covered by the application and an entity identifier. Disclaimer does not mean deletion of the aforementioned words from the mark but merely waiver of the exclusive right over the words for reasons stated above apart from the mark sought to be registered.

SEC. 126. Disclaimers – The Office may allow or require the applicant to disclaim an unregistrable component of an otherwise registrable mark but such disclaimer shall not prejudice or affect the applicant’s or owner’s rights then existing or thereafter arising in the disclaimed matter, nor shall disclaimer prejudice or affect the applicant’s or owner’s right on another application of later date if the disclaimed matter became distinctive of the applicant’s or owner’s goods, business or services. (Sec. 13, R.A. No. 166a)

RULE 604. Disclaimers. – The basic purpose of disclaimers is to make of record, that a significant element of a composite mark is not being exclusively appropriated apart from the composite. The following portions of a mark, when forming part of the composite mark, must be disclaimed to permit registration, namely: (a) a generic term; (b) a descriptive matter in the composite mark; (c) a customary term, sign or indication; or (d) a matter which does not function as a trademark, or service mark or a trade name.

Such disclaimer shall not prejudice or affect the applicant’s rights then existing under some other law or thereafter arising in the disclaimed matter, nor shall such disclaimer prejudice or affect the applicant’s rights to registration on another application of later date, where the disclaimed matter has become distinctive of the applicant’s goods, business or services.

Where the Examiner has determined that any portion of a mark contains unregistrable matter which must be disclaimed, the Examiner shall communicate the findings to the applicant in the office action. If the applicant fails to comply with the Examiner’s requirement for a disclaimer, the Examiner must make the requirement final if the application is in condition for a final action.

Partial disclaimer may be allowed with respect to some classes or some goods and/or services.

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 IPOPHL 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 IPOPHL 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)

Registration No.	4/1996/00109537
Registration Date	17 November 2000
Registrant	PACIFIC NORTHWEST FARMERS COOPERATIVE, INC. - W 625 Chestnut Street, 83832, Genesee, Idaho, United States of America
Trademark	CLIPPER
	CLIPPER
Disclaimer	NONE
Translation	NONE
Color claim	NONE
Priority Claim	75/004,382 11 Oct 1995 US
Goods / Services	Class 29: Dehydrated vegetables namely peas, lentils and garbanzos.