



## **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:**

1542831

**III. Name of the holder:**

Shanghai Baifeng Investment 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 June 3, 2022. 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.

In view of paragraph 12(1)(d) of the Trademarks Act, the trademark does not appear to be registrable since it is considered confusing with registered trademarks nos. TMA823,808, TMA1,022,742 and TMA1,027,669, particulars of which are attached.

In assessing whether there is a reasonable likelihood of confusion between the trademark and the cited trademarks, the Registrar must have regard to the provisions of subsection 6(2) of the Trademarks Act, which provides that:

The use of a trademark causes confusion with another trademark if the use of both trademarks in the same area would be likely to lead to the inference that the goods or services associated with those trademarks are manufactured, sold, leased, hired or performed by the same person, whether or not the goods or services are of the same general class.

The Registrar must consider all the surrounding circumstances including those stated in subsection 6(5) of the Act:

- (a) the inherent distinctiveness of the trademarks or tradenames and the extent to which they have become known;
- (b) the length of time the trademarks or tradenames have been in use;
- (c) the nature of the goods, services or business;
- (d) the nature of the trade;
- (e) the degree of resemblance between the trademarks or tradenames in appearance or sound or in the ideas suggested by them.

Confusion is tested in terms of the average consumer's first impression of the one trademark and imperfect recollection of the other trademark(s), and not by a side-by-side scrutiny. The "average consumer" is a likely buyer of the associated goods or services who has an average education in English and/or French.

Please be advised that the objection, as noted above with respect to the cited trademarks with registration nos. TMA823,808, TMA1,022,742 and TMA1,027,669, pertains to all the goods presently designated in the subject Protocol application.

Any comments the applicant may wish to submit in writing will receive consideration.

Additionally, pursuant to paragraph 30(2)(a) of the Trademarks Act, an application for the registration of a trademark must contain a statement in ordinary commercial terms of the associated goods or services. Section 29 of the Trademarks Regulations requires that the statement must describe each of those goods or services in a manner that identifies a specific good or service. It is considered that the following goods are not in specific and ordinary commercial terms:

- 1) cosmetic preparations for the face and body; foundation; (class 3)

The Office considers that the entry "cosmetic preparations for the face and body" is not an ordinary commercial term for specific goods. Please indicate the specific type of the "cosmetic preparations for the face and body", namely, lotion, scrub, cleanser, etc.. Please also indicate the specific area of use of the "foundation", for example, "foundation makeup".

The following three-part test is considered when determining whether the statement of goods or services is considered to be "specific" within the meaning of section 29 of the Trademarks Regulations:

- 1. Are the goods or services sufficiently specific so that it is possible to assess whether the trademark is clearly descriptive of those goods or services?
- 2. Are the goods or services sufficiently specific so that it is possible to assess confusion with another trademark?
- 3. Are the goods or services sufficiently specific to ensure that the applicant will not have an unreasonably wide ambit of protection?

For further guidance on redefining the goods, please refer to the Goods and Services Manual available on our website. This searchable tool is not an exhaustive list of acceptable terms, but it may be used as a guide to the specificity and ordinary commercial term requirements of the Trademarks Act and its Regulations.

The applicant is required to file an amended Protocol application, using the e-service on the CIPO website at [www.cipo.ic.gc.ca](http://www.cipo.ic.gc.ca), by fax at 819-953-2476 or by mail at the following address:

Registrar of Trademarks  
Place du Portage I

50 Victoria Street, room C-114  
Gatineau, QC K1A 0C9

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,

Lihui Jiang  
Examination Section  
819-962-6751  
fax: 819-953-2476

## VII. Information relating to an earlier mark:

1500158 TMA823,808  
1848599 TMA1,027,669  
1864644 TMA1,022,742

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

2010-10-19, **1500158**

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

2012-05-10, TMA823,808

(iii) Name and address of the owner:

JALA GROUP INC.  
NO. 12, LI FENG ROAD  
SHANGHAI, 200031  
CHINA

(iv) Reproduction of the mark:

CHCEDO and 3 Chinese characters design

CHCÉDO  
自然堂

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

Cosmetics; facial masks; skin lotions; skin care preparations; laundry bleach; laundry detergents; laundry soap; laundry stain removers; nail polish; abrasives for preparing nail surfaces for nail polish; skin abrasives; skin scrub; essential oils for personal use; essential oils

for the manufacture of perfumes; dentifrice; toothpaste; potpourri.

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

2017-07-20, **1848599**

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

2019-06-18, TMA1,027,669

(iii) Name and address of the owner:

JALA GROUP INC.  
NO. 12, LI FENG ROAD  
SHANGHAI, 200031  
CHINA

(iv) Reproduction of the mark:

CHANDO ZIRANTANG & DESIGN

CHANDO  
自然堂

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

3 Cosmetics, cosmetic kits, cakes of soaps, mouth washes, facial cleanser; hair care products, namely, shampoos and hair conditioners; dentifrices; toiletries, namely, tooth powder; perfumes

5 Nutritional supplements for general health and well-being; Linseed oil dietary supplements, wheat germ dietary supplements, royal jelly dietary supplements, pollen dietary supplements, protein dietary supplements, slimming tea, vaginal washes, personal sexual lubricants

30 Candy

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

2017-10-26, **1864644**

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

2019-05-29, TMA1,022,742

(iii) Name and address of the owner:

JALA GROUP INC.  
NO. 12, LI FENG ROAD, FENGXIAN DISTRICT, SHANGHAI  
CHINA

(iv) Reproduction of the mark:

CHANDO  
自然堂

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

3 Hair lotions; shampoos; hair conditioners; rose oil; lipsticks; beauty masks; cosmetic kits; cosmetics; toilet water; lotions for cosmetic purposes; eyebrow cosmetics; perfumes; eyebrow pencils; lip glosses; sunscreen preparations; lip balm; anti-wrinkle creams; skin whitening creams; anti-freckle creams; rouges; eye shadow; dentifrices; incense; cosmetics for animals.

**VIII. Corresponding essential provisions of the applicable law:**

Paragraph 12(1)(d) of the Trademarks Act  
Paragraph 30(2)(a) of the Trademarks Act  
Section 29 of the Trademarks Regulations

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

- (i) Time limit for requesting review or appeal:  
2022-06-03
- (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:**

2021-12-03



3 déc/Dec 2021  
Votre référence Your File

Notre référence Our File  
2043012  
Numéro EI IR Number  
1542831

自然之源

Shanghai Baifeng Investment Co., Ltd.  
Room 309D, No. 21, Lane 596,  
Yan'an Middle Road, Jing'an District  
Shanghai  
CHINA

RE: Trademark: Chinese characters design  
Applicant: Shanghai Baifeng Investment Co., Ltd.

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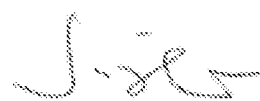
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Place du Portage I  
50 Victoria Street, room C-114  
Gatineau, QC K1A 0C9

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Yours truly,



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