



MADRID PROTOCOL

Total Provisional Refusal of Protection

(Rule 17(1) of the Regulations under the Protocol)

I. Name of the Office:

Canadian Intellectual Property Office

II. International registration number:

1580762

III. Name of the holder:

Lumielina International Inc.

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:

The provisional refusal affects all the goods and 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 January 6, 2023. 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.

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. Furthermore, 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 services are not in specific and ordinary commercial terms:

- 1) beauty care services (class 44);
- 2) consultation services relating to beauty care services [...] (class 44);
- 3) providing information relating to beauty care services [...] (class 44);
- 4) rental of machines and apparatus for use in beauty salons or barbers' shops (class 44);
- 5) provision of medical information (class 44);
- 6) rental of medical apparatus and instruments (class 44).

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 statements of services, 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, 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

Upon satisfactory compliance with the above-mentioned requirements, further office action will be undertaken.

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,

Kimberly Dunn
Examination Section
819-665-8767
fax: 819-953-2476

VII. Information relating to an earlier mark:

-
- (i) Filing date and number, and, if any, priority date:
Not applicable
 - (ii) Registration date and number (if available):
Not applicable
 - (iii) Name and address of the owner:
Not applicable
 - (iv) Reproduction of the mark:
Not applicable
 - (v) List of the relevant goods and services (this list may be in the language of the earlier application or registration):
Not applicable

VIII. Provisions of the applicable law:

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 or otherwise respond to the opposition:

- (i) Time limit to request a review or file an appeal or otherwise respond to the opposition:
2023-01-06
- (ii) Calculation of time limit (the time limit runs from):
2022-07-06
- (iii) Authority to which such request for review, appeal or response should be made:
Registrar of Trademarks
- (iv) Whether the request for review, appeal or response has to be filed in a specific language or through a local representative:
Correspondence must be in French or English
- (v) Other requirements, if any:
Not applicable

X. Date and signature of the Office:

Registrar of Trademarks
2022-07-06



6 juil/Jul 2022
Votre référence Your File

Notre référence Our File
2090919
Numéro EI IR Number
1580762

Lumielina International Inc.
Ginza Yamato Building,
7-9-17 Ginza,
Chuo-ku
Tokyo 104-0061
JAPAN

RE: Trademark: Color Fantasy
Applicant: Lumielina International Inc.

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