



**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>

DOCUMENT NO.	2022/143179
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: 1650099	IR Date (Filing Date): 15 December 2021
Holder: GRUPO CACAOLAT, S.L. [ES]	
Mark: Cacaolat	
Examiner: CARMELITA C. BARTOLOME	
Supervisor: CHESTER ARTURO D. CINCO	

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 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.

2. Records show that the same subject mark is already the subject of another registration no. M-1207804 by the applicant for class 30. Unless the previous application was already abandoned and can no longer be

revived or removed from register, the subject application cannot be given due course, as that would only result in double registration of the subject mark on same goods/services. Applicant is hereby required to clarify which to prosecute and which to abandon to avoid double registration.

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.



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We are transmitting to you a copy of the attached notification of provisional refusal issued by the Intellectual Property Office of the Philippines (IPOPHL).

IPOPHL has informed WIPO that the new time limit to respond to this notification is two (2) months from the date on which WIPO transmitted the notification to you **(the new time limit does not apply to a provisional refusal based on opposition)**.

We strongly recommend that you contact IPOPHL upon receipt of this notification if you intend to respond to this provisional refusal.

Please, disregard this notification if you had already taken appropriate action before IPOPHL.

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Nous vous transmettons à nouveau une copie de la notification de refus provisoire ci-jointe, émise par l'Office de la propriété intellectuelle des Philippines (IPOPHL).

L'IPOPHL a informé l'OMPI que le nouveau délai pour répondre à cette notification était de deux (2) mois à compter de la date à laquelle l'OMPI vous avait transmis la notification **(le nouveau délai ne s'applique pas à un refus provisoire fondé sur une opposition)**.

Nous vous recommandons vivement de prendre contact avec l'IPOPHL dès réception de cette notification si vous avez l'intention de répondre à ce refus provisoire.

Veuillez ne pas tenir compte de cette notification si vous avez déjà pris les mesures appropriées devant l'IPOPHL.

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Le transmitimos de nuevo una copia de la notificación de denegación provisional adjunta emitida por la Oficina de Propiedad Intelectual de Filipinas (IPOPHL).

La IPOPHL ha informado a la OMPI de que el nuevo plazo para responder a esta notificación es de dos (2) meses a partir de la fecha en que la OMPI le transmitió la notificación **(el nuevo plazo no se aplica a una denegación provisional basada en una oposición)**.

Le recomendamos encarecidamente que se ponga en contacto con la IPOPHL en cuanto reciba esta notificación si tiene intención de responder a esta denegación provisional.

Por favor, no tenga en cuenta esta notificación si ya ha tomado las medidas oportunas antes de la IPOPHL.