



## 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:**

1525989

**III. Name of the holder:**

Atterley.Com Holdings Limited

**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 November 1, 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 goods or services are not in specific and ordinary commercial terms:

Class 9

1. Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments;
2. apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity;
3. apparatus for recording, transmission or reproduction of sound or images;

4. magnetic data carriers, recording discs;
5. compact discs, DVDs and other digital recording media;
6. mechanisms for coin-operated apparatus;
7. cash registers, calculating machines, data processing equipment, computers;
8. computer software;
9. fire-extinguishing apparatus;
10. electronic publications;
11. downloadable electronic publications;
12. applications for smart phones and tablets;
13. eyewear;
14. parts and fittings for all the aforesaid goods.

#### Class 18

1. bags;
2. baby carriers;
3. beauty cases;
4. parts and fittings for all the aforesaid goods.

#### Class 25

1. Clothing, footwear, headgear;
2. menswear;
3. womenswear;
4. childrenswear;
5. canvas footwear;
6. collars;
7. non-slipping devices for footwear;
8. hoods;
9. knitwear;
10. clothing of imitations of leather;
11. clothing of leather;
12. leggings;
13. leg warmers;
14. leggings;
15. ready-made linings;
16. mantillas;
17. sleep masks;
18. mittens;
19. motorists' clothing;
20. muffs;
21. outerclothing;
22. paper clothing;
23. ready-made clothing;
24. uniforms;
25. footwear uppers;
26. visors;
27. waterproof clothing;
28. braces;
29. sportswear, footwear for sports;
30. clothing for motorsports;
31. parts and fittings for all the aforesaid goods.

#### Class 35

1. Advertising;

2. business administration;
3. office functions;
4. loyalty card services;
5. advertising, marketing and promotional services;
6. dissemination of advertising and promotional materials;
7. direct mail advertising services;
8. on-line advertising on a computer network;
9. market research and marketing services;
10. business information;
11. dissemination of statistical information;
12. presentation of goods on communication media, for retail purposes;
13. commercial information and advice for consumers;
14. sales promotion for others;
15. distribution of samples;
16. retail and online retail services connected with the sale of soaps, cosmetics, perfumery, essential oils, eau de parfum, eau de toilette, cologne, fragrances and fragrance products for personal use, massage oils, hair lotions, cosmetics, cosmetic preparations for skin care, skin care cosmetics, skin care preparations, astringents for cosmetic purposes, preparations for the bath and shower, shower gel, bath gels, scented body lotions and creams, scented moisturizing skin cream, moisturisers, body lotions and creams, moisturising creams, scented skin soap, body oil, face, lip and cheek make-up, face powder, face glitter, lipstick, lip gloss, non-medicated lip balm, lip pencils, perfumed shimmer sticks, eye shadow, eye pencils, mascara, eye make-up, eyeliners, eye creams, eye gels, eye balms, highlighter, masks, cleansers, toners, clarifiers, exfoliators, foundation make-up, blusher, compacts, make-up remover, fragrance sachets, room fragrances, beauty care preparations, beauty care products, beauty creams, beauty tonics for application to the body, beauty tonics for application to the face, non-medicated beauty preparations, non-medicated skin care beauty products, skin care products for personal use, namely, face, eye and lip moisturisers, face and skin creams, lotions and serums, anti-aging treatments, foundation for the face, hair care products, shampoo, hair conditioners, hair mousse, hair moulding creams, hair gel and hair spray, nail care preparations, nail polish, nail strengtheners, and nail polish remover, shaving cream, shaving gel, after-shave preparations, after-shave lotion, depilatory preparations, personal deodorant, antiperspirants, potpourri, nail care preparations, nail varnish and remover thereof, sun tanning preparations, cosmetic preparations for skin tanning, artificial tanning preparations, scientific apparatus and instruments, nautical apparatus and instruments, surveying apparatus and instruments, photographic apparatus and instruments, cinematographic apparatus and instruments, optical apparatus and instruments, weighing apparatus and instruments, measuring apparatus and instruments, signalling apparatus and instruments, checking (supervision) apparatus and instruments, life-saving apparatus and instruments, teaching apparatus and instruments, apparatus and instruments for conducting electricity, apparatus and instruments for switching electricity, apparatus and instruments for transforming electricity, apparatus and instruments for accumulating electricity, apparatus and instruments for regulating electricity, apparatus and instruments for controlling electricity, apparatus for recording of sound or images, apparatus for transmission of sound or images, apparatus for reproduction of sound or images, magnetic data carriers, recording discs, compact discs, DVDs, digital recording media, mechanisms for coin-operated apparatus, cash registers, calculating machines, data processing equipment, computers, computer software, fire-extinguishing apparatus, electronic publications, downloadable publications, applications for smartphones and tablets, sunglasses, spectacles, eyewear, spectacle cases, chains and eyeglass frames, eyeshades, lenses, precious metals, precious metal alloys, jewellery, precious stones, horological instruments, chronometric instruments, watches, cufflinks, cases, badges of precious metal, clocks, alarm clocks, figurines [statuettes] of precious metal, key-rings, medals, semi-precious stones, tie

pins, tie clips, watch straps, jewellery boxes, leather, imitations of leather, animal skins, hides, trunks, travelling bags, umbrellas, parasols, walking sticks, whips, harness, saddlery, portmanteaux, suitcases, bags, leather handbags, attache cases, haversacks, hat boxes, briefcases, handbags, key cases, leather laces, music cases, wallets, purses, satchels, wheeled shopping bags, rucksacks, game bags, fur, baby backpacks, baby carriers, back packs, cases, satchels, clothing for pets, animal apparel, paper, cardboard, printed matter, bookbinding material, photographs, stationery, adhesives for stationery or household purposes, artists' materials, paint brushes, typewriters, office requisites, instructional and teaching material, plastic materials for packaging, printers' type, printing blocks, packaging materials, packaging tape, packaging containers of card, cardboard materials for packaging, packaging containers of paper, gift wrapping, paper gift wrapping ribbons, bubble packs for packaging, packaging bags of paper, paper packaging, gift packaging, envelopes, packaging envelopes made of paper, printed publications, magazines, textiles, textile piece goods, fabrics, coverings for furniture, labels, linens, bed covers, table covers, bath linen, except clothing, bed blankets, chenille fabric, cheviots, cloth, coasters, cotton fabrics, covers for cushions, fabrics for textile use, household linen, jersey, lining fabric for shoes, linings, loose covers for furniture, mattress covers, napkins, of cloth, for removing make-up, handkerchiefs, net curtains, non-woven textile fabrics, sanitary flannel, serviettes of textile, sheets, shower curtains of textile or plastic, shrouds, silk, silk fabrics for printing patterns, table runners, tablecloths, not of paper, tablemats, not of paper, textile material, towels of textile, traced cloth for embroidery, travelling rugs, tulle, upholstery fabrics, velvet, wall hangings of textile, washing mitts, woollen cloth, zephyr, textiles for making clothing, duvets, duvet covers, pillow covers, bath linen, bed canopies, curtains, blankets, bed blankets made of cotton, bed blankets made of wool, bed blankets made of man-made fibres, hooded towels, clothing, footwear, headgear, menswear, womenswear, childrenswear, bandanas, bathing caps, beach clothes, beach shoes, belts, money belts, berets, bibs (not of paper), bodices, boot uppers, boots, ski boots, leather shoes, suede shoes, canvas footwear, brassieres, camisoles, caps, berets, scarves, shower caps, clothing for gymnastics, coats, collars, corsets, wristbands, cyclists' clothing, detachable collars, dresses, ear muffs, football boots, footmuffs, non-slipping devices for footwear, tips for footwear, heelpieces for footwear, furs, gloves, dressing gowns, gymnastic shoes, half-boots, hats, paper hats, headbands, heels, hoods, hosiery, inner soles, stuff jackets, jackets, jerseys, jumper dresses, knitwear, lace boots, layettes, clothing of imitations of leather, clothing of leather, leggings, leg warmers, leggings, ready-made linings, mantillas, sleep masks, mittens, motorists' clothing, muffs, neckties, outerclothing, overalls, overcoats, pants, paper clothing, parkas, playsuits, cap peaks, pelerines, pelisses, petticoats, pocket squares, pockets for clothing, ponchos, pullovers, pyjamas, ready-made clothing, bath robes, sandals, saris, sarongs, scarfs, shawls, dress shields, shirt fronts, shirts, shoes, short-sleeve shirts, sports jerseys, ski gloves, ski jackets, skirts, skull caps, slippers, slips, sock suspenders, socks, soles for footwear, gaiters, sports shoes, boots for sports, stocking suspenders, stockings, leg warmers, sweat absorbent stockings, suits, swimsuits, suspenders for clothing, sweat-absorbent underclothing, sweaters, tee-shirts, tights, togas, top hats, trouser straps, trousers, bathing trunks, turbans, underpants, underwear, uniforms, footwear uppers, veils, fishing vests, visors, waistcoats / vests, waterproof clothing, wet suits for water-skiing, dressing gowns, sleepsuits, bodysuits, earmuffs, socks, blouses, anoraks, windbreakers, hats, braces, sportswear, footwear for sports, clothing for motorsports, overalls for motorsport, lace, embroidery, ribbons, braid, buttons, hooks, eyes, pins, needles, artificial flowers, musical instruments, furniture, mirrors, picture frames, beds, bedding, mattresses, pillows, cushions, door fittings, furniture fittings, curtains, blinds, games, playthings, gymnastic articles, sporting articles, decorations for Christmas trees, bleaching preparations, substances for laundry use, cleaning preparations, polishing preparations, scouring preparations, abrasive preparations, soaps, perfumery, essential oils, cosmetics, hair lotions,

- dentifrices, make-up for the face, hand tools, hand operated implements, cutlery, side arms, razors, manicure sets, hand operated tools for hairdressing, electric apparatus for hair crimping, straightening, styling, hairdressing appliances;
17. retail services or wholesale services for parts and fittings for all the aforesaid goods;
  18. the bringing together, for the benefit of others, of all of the aforesaid goods enabling customers to conveniently view and purchase all of the aforesaid goods from an internet website or from a catalogue by mail order, or by means of telecommunications;
  19. providing information, advisory and consultancy services relating to the aforesaid services.

Services such as “advertising,” “marketing,” and “promoting” are acceptable under the Trademarks Act only if the applicant is providing these services to another party, and the third party receives a benefit from the services. In general, the applicant must be “advertising,” “marketing” or “promoting” the goods or services of others.

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 goods or 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](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

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,  
Lee CHITTY  
Examination Section  
819-712-3847  
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:  
2023-11-01
- (ii) Calculation of time limit (the time limit runs from):  
2023-05-01
- (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

2023-05-01



1 mai/May 2023  
Votre référence Your File

Notre référence Our File  
2159884  
Numéro EI IR Number  
1525989

Atterley.Com Holdings Limited  
16 Charlotte Square,  
Edinburgh EH2 4DF  
UNITED KINGDOM

RE: Trademark: ATTERLEY  
Applicant: Atterley.Com Holdings Limited

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15. distribution of samples;
16. retail and online retail services connected with the sale of soaps, cosmetics, perfumery, essential oils, eau de parfum, eau de toilette, cologne, fragrances and fragrance products for personal use, massage oils, hair lotions, cosmetics, cosmetic preparations for skin care, skin care cosmetics, skin care preparations, astringents for cosmetic purposes, preparations for the bath and shower, shower gel, bath gels, scented body lotions and creams, scented moisturizing skin cream, moisturisers, body lotions and creams, moisturising creams, scented skin soap, body oil, face, lip and cheek make-up, face powder, face glitter, lipstick, lip gloss, non-medicated lip balm, lip pencils, perfumed shimmer sticks, eye shadow, eye pencils, mascara, eye make-up, eyeliners, eye creams, eye gels, eye balms, highlighter, masks, cleansers, toners, clarifiers, exfoliators, foundation make-up, blusher, compacts, make-up remover, fragrance sachets, room fragrances, beauty care preparations, beauty care products, beauty creams, beauty tonics for application to the body, beauty tonics for application to the face, non-medicated beauty preparations, non-medicated skin care beauty products, skin care products for personal use, namely, face, eye and lip moisturisers, face and skin creams, lotions and serums, anti-aging treatments, foundation for the face, hair care products, shampoo, hair conditioners, hair mousse, hair moulding creams, hair gel and hair spray, nail care preparations, nail polish, nail strengtheners, and nail polish remover, shaving cream, shaving gel, after-shave preparations, after-shave lotion, depilatory preparations, personal deodorant, antiperspirants, potpourri, nail care preparations, nail varnish and remover thereof, sun tanning preparations, cosmetic preparations for skin tanning, artificial tanning preparations, scientific apparatus and instruments, nautical apparatus and instruments, surveying apparatus and instruments, photographic apparatus and instruments, cinematographic apparatus and instruments, optical apparatus and instruments, weighing apparatus and instruments, measuring apparatus and instruments, signalling apparatus and instruments, checking (supervision) apparatus and instruments, life-saving apparatus and instruments, teaching apparatus and instruments, apparatus and instruments for conducting electricity, apparatus and instruments for switching electricity, apparatus and instruments for transforming electricity, apparatus and instruments for accumulating electricity, apparatus and instruments for regulating electricity, apparatus and instruments for

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paper, printed publications, magazines, textiles, textile piece goods, fabrics, coverings for furniture, labels, linens, bed covers, table covers, bath linen, except clothing, bed blankets, chenille fabric, cheviots, cloth, coasters, cotton fabrics, covers for cushions, fabrics for textile use, household linen, jersey, lining fabric for shoes, linings, loose covers for furniture, mattress covers, napkins, of cloth, for removing make-up, handkerchiefs, net curtains, non-woven textile fabrics, sanitary flannel, serviettes of textile, sheets, shower curtains of textile or plastic, shrouds, silk, silk fabrics for printing patterns, table runners, tablecloths, not of paper, tablemats, not of paper, textile material, towels of textile, traced cloth for embroidery, travelling rugs, tulle, upholstery fabrics, velvet, wall hangings of textile, washing mitts, woollen cloth, zephyr, textiles for making clothing, duvets, duvet covers, pillow covers, bath linen, bed canopies, curtains, blankets, 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braid, buttons, hooks, eyes, pins, needles, artificial flowers, musical instruments, furniture, mirrors, picture frames, beds, bedding, mattresses, pillows, cushions, door fittings, furniture fittings, curtains, blinds, games, playthings, gymnastic articles, sporting articles, decorations for Christmas trees, bleaching preparations, substances for laundry use, cleaning preparations, polishing preparations, scouring preparations, abrasive preparations, soaps, perfumery, essential oils, cosmetics, hair lotions, dentifrices, make-up for the face, hand tools, hand operated implements, cutlery, side arms, razors, manicure sets, hand operated tools for hairdressing, electric apparatus for hair crimping, straightening, styling, hairdressing appliances;

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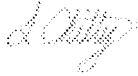
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Place du Portage I  
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Yours truly,



Lee CHITTY  
Examination Section  
819-712-3847  
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