



## 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:**

1636686

**III. Name of the holder:**

Meaningful Things GmbH & Co. KG

**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 3, 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.

In view of paragraph 37(1)(c) of the Trademarks Act, the applicant does not appear to be entitled to registration. Specifically, the entitlement date of November 16, 2021 of the subject Protocol application is later than the entitlement date, namely May 20, 2021, of co-pending and confusing protocol application no. 2,141,317, the 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, 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 above-mentioned objection pertains to all the goods and services presently designated in the subject Protocol application.

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

As well, 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:

- 1) Software, namely for increasing productivity and improving mental health. (Class 9).
- 2) Software as a service (SAAS) featuring software for increasing productivity and improving mental health. (Class 42)

By way of example only, the following goods or services would be deemed acceptable:

- 1) Software for developing, generating and uploading courses of instruction and coaching material to encourage employee creative development to increase productivity and to improve mental health. (Class 9).
- 2) Software as a service (SAAS) provider featuring online non-downloadable software for developing, generating and uploading courses of instruction and coaching material

to encourage employee creative development to increase productivity and to improve mental health. (Class 42)

If these examples are not an accurate description of the applicant's goods or services, they can be used as a guide to the specificity and ordinary commercial term requirements.

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

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,

Nathalie Boulet  
Examination Section  
873-355-9194  
fax: 819-953-2476

## VII. Information relating to an earlier mark:

2141317

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- (i) Filing date and number, and, if any, priority date:  
2021-05-20, **2141317**, 2020-11-23
- (ii) Registration date and number (if available):

Not applicable

(iii) Name and address of the owner:

ALERO TANNHELSESENTER AS  
Senterveien 30  
N-4790 LILLESAND  
NORWAY

(iv) Reproduction of the mark:

ATTENT

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

(Class 9) Computer software and application software; software relating to dental health; software for assessing and monitoring dental health, analysing data and images relating to dental health, diagnosing dental health issues and obtaining dental health information and advice; downloadable electronic and digital publications; downloadable electronic publications and media content relating to dentistry and dental health; databases.

(Class 10) Medical device; medical equipment; dental equipment, apparatus and devices; dentistry equipment and devices; dental health equipment and devices; electronic dental apparatus and instruments; dental intraoral cameras; dental imaging devices and equipment; devices for detecting dental health issues; parts, fittings and accessories for the aforesaid.

(Class 10) Medical equipment

(Class 35) Retail services in relation to computer software and application software, downloadable electronic publications and media content, medical and dental equipment, apparatus and devices, dentistry equipment and devices, dental health equipment and devices, electronic dental apparatus and instruments, dental intraoral cameras, dental imaging devices and equipment, devices for detecting dental health issues, and parts, fittings and accessories for the aforesaid goods; online retail services in relation to computer software and application software, downloadable electronic publications and media content, medical and dental equipment, apparatus and devices, dentistry equipment and devices, dental health equipment and devices, electronic dental apparatus and instruments, dental intraoral cameras, dental imaging devices and equipment, devices for detecting dental health issues, and parts, fittings and accessories for the aforesaid goods; compilation of data into computer databases in the field of dentistry and dental health; collating and indexing data relating to dentistry and dental health; referral marketing services in the field of dental health; commercial introduction and marketing services in the field of dental health, namely referring customers to dental professionals; information, advisory and consultancy services relating to the aforesaid.

(Class 41) Education relating to dental health; provision of educational content for apps for mobile or wireless devices and computers in the field of dentistry and dental health; providing online tutorials in the field of dentistry and dental health; providing online non-downloadable electronic publications, educational materials and video and audio recordings relating to dentistry and dental health; information, advisory and consultancy services relating to the aforesaid.

(Class 42) Scientific and technological services, research and design, all in the field of dentistry and dental health; design and development of computer software and software applications in the field of dentistry and dental health; design and development of algorithms in the field of dentistry and dental health; design and development of dental equipment and devices; medical research services in the field of dentistry and dental health; software as a service; providing temporary use of non-downloadable software on a global computer network; providing online, non-downloadable software; providing temporary use of on-line non-downloadable software; software as a service in connection with dentistry and dental health; providing on-line non-downloadable software relating to dentistry and dental health on a global

computer network; providing online, non-downloadable software relating to dentistry and dental health; providing temporary use of on-line non-downloadable software relating to dentistry and dental health; updating and maintenance of software and database systems in the field of dentistry and dental health; technical data analysis in the field of dentistry and dental health; information, advisory and consultancy services relating to the aforesaid.

(Class 44) Dentistry; dental healthcare services; medical diagnostic services in the field of dentistry and dental health; dentistry and dental health advisory and information services; dental health screening services; oral health services and advice; medical examination services and medical health assessment services, namely assessing data relating to the measurement of a person's dental health; medical analysis in the field of dentistry and dental health; medical examination services and medical health assessment services, namely collecting, recording, analysing, interpreting and assimilating data relating to the measurement of a person's dental health; information and advisory services relating to dental equipment, devices, apparatus and instruments; information, advisory and consultancy services relating to the aforesaid.

### **VIII. Provisions of the applicable law:**

Paragraph 30(2)(a) of the *Trademarks Act*

Paragraph 37(1)(c) 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:  
2023-11-03
- (ii) Calculation of time limit (the time limit runs from):  
2023-05-03
- (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

2023-05-03



3 mai/May 2023  
Votre référence Your File

Notre référence Our File  
2157446  
Numéro EI IR Number  
1636686

Meaningful Things GmbH & Co. KG  
Gartenstraße 49  
72074 Tübingen  
GERMANY

RE: Trademark: Attentive  
Applicant: Meaningful Things GmbH & Co. KG

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

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Yours truly,



Nathalie Boulet  
Examination Section  
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