



## 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:**

1338444

**III. Name of the holder:**

METEO OPERATIONS ITALIA (MOPI)S.R.L.

**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 4, 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 12(1)(d) of the *Trademarks Act*, the trademark does not appear to be registrable since it is considered confusing with registered trademark no. TMA1,120,768, particulars of which are attached.

In assessing whether there is a reasonable likelihood of confusion between the trademark and the cited registered 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 trademarks, 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 trademark with registration no. TMA1,120,768, pertains to all of the goods in class 25 and designated in the subject Protocol application.

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

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 and services. Furthermore, section 29 of the *Trademarks Regulations* requires that the statement must describe each of those goods and services in a manner that identifies a specific good or service. It is considered that the following underlined goods and services are not in specific and ordinary commercial terms:

[Class 09] (1) Software as computer programs and downloadable computer programs destined to the teaching and publishing of information regarding the meteorology.

[Class 16] (2) Paper articles, namely newspapers, books, magazines, newsletters, posters, note-books, agendas, calendars.

[Class 25] (3) Clothing, namely, anoraks, blazers, blouses, blousons, bodysuits, boleros, camisoles, capes, cardigans, chemises, top coats, corselets, culottes, dresses, jackets, jumpers, jumpsuits, kerchiefs, kimonos, leggings, leotards, mufflers, neckerchiefs, neckties, overalls, overcoats, pants, pantsuits, playsuits, ponchos, pullovers, raincoats, scarves, shawls, shirts, shorts, undershirts, sport coats, sport shirts, stoles, suits, sweat pants, sweat shirts, sweaters, T-shirts, trousers, vests, skirts, jeans, coats, gloves, hats, brassieres, panties, hosiery, pajamas, bathrobes, underwear, footwear, night dresses, night gowns, slippers, belts.

[Class 28] (4) Games and toys.

[Class 41] (1) Training, namely, courses, seminars and workshops in the fields of meteorology, music, sports, culture and movie premieres; cultural activities, namely, provision of information relating to organizing community sporting and cultural activities, contests and games; television entertainment, namely, television show production in the field of meteorology, news, entertainment; entertainment provided online via local and global networks, namely, providing online computer games; production of cine-films, and television programs; information regarding entertainment and cultural activities; publication of books, reviews, magazines;

publication of magnetic and digital data, sound and images, namely, multimedia publishing of books, magazines, journals, software, games, music and electronic publications; provision of cinema facilities; cinemas; rental of cine-films and sound recordings; news reporters services; photographic reporting; production of films, television shows, musical recordings, television and radio shows for broadcasts; artists' distribution of television programs for others; television entertainment information; organization of exhibitions for cultural and educational purposes.

[Class 42] (2) Meteorological information services, weather forecasting and meteorological surveys.

For further guidance on redefining the goods and 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,

Wei Huang

Examination Section

819-639-2678

fax: 819-953-2476

## VII. Information relating to an earlier mark:

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50, rue Victoria • Place du Portage 1 • Gatineau (Québec) K1A 0C9 • [www.opic.ic.gc.ca](http://www.opic.ic.gc.ca)  
50 Victoria Street • Place du Portage 1 • Gatineau (Quebec) K1A 0C9 • [www.cipo.ic.gc.ca](http://www.cipo.ic.gc.ca)

The logo for Canada, featuring the word "Canada" in a stylized serif font with a small flag icon above the letter 'a'.

- (i) Filing date and number, and, if any, priority date:  
2019-06-19, **1974104**
- (ii) Registration date and number (if available):  
2022-02-23, TMA1,120,768
- (iii) Name and address of the owner:  
YVES SALOMON SAS  
3 cité Paradis  
F-75010 PARIS  
FRANCE
- (iv) Reproduction of the mark:  
METEO
- (v) List of the relevant goods and services (this list may be in the language of the earlier application or registration):  
(Class 18) Cuir, imitations du cuir, fourrure, imitation de fourrure, malles et valises; parapluies, parasols et cannes; fouets et sellerie, trousse à maquillage, porte-monnaie, porte-cartes, sacs à main, sacs de voyage, sacshousses pour vêtements pour le voyage, sacs à chaussures de voyage, colliers pour chiens, portedocuments, cartables, trousse de toilette, articles de maroquinerie en cuir ou imitation du cuir, à savoir serviettes, porte-billets, porte-étiquettes à bagages, portefeuilles, trousse de voyage, étuis pour cartes de crédit et porte-cartes de crédit.  
  
(Class 25) Vêtements nommément vêtements décontractés, vêtements sport, vêtements d'affaires, vêtements de soirée, vêtements d'hiver d'extérieur, vêtement de pluie, vêtement pour enfants; vêtements en fourrure nommément manteaux, vestes, blousons, capes; vêtement en cuir nommément manteaux, blousons, vestes, pantalons, robes, jupes; lingerie; châles; chemises; chemisiers; jupes; cravates; foulards; imperméables; pantalons; pardessus; parkas; peignoirs; pelisses; pull-overs; gilets; pulls; pyjamas; robes; vestes; vêtements de sport; chaussures de sport, chaussures de plage, chaussures de pluie, chaussures pour femmes, chaussures pour hommes, chaussures pour enfants, chaussures pour bébés, chaussures habillées, chaussures tout-aller, chaussures d'extérieur pour l'hiver, chaussures en cuir; chapellerie nommément chapeaux, casquettes, toques et bonnets tricotés.

### **VIII. 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 or otherwise respond to the opposition:**

- (i) Time limit to request a review or file an appeal or otherwise respond to the opposition:  
2023-11-04
- (ii) Calculation of time limit (the time limit runs from):  
2023-05-04
- (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

2023-05-04



4 mai/May 2023  
Votre référence Your File

Notre référence Our File  
2158636  
Numéro EI IR Number  
1338444

BORDEN LADNER GERVAIS LLP  
1200 WATERFRONT CENTRE  
200 BARRARD STREET  
P.O. BOX 48600  
VANCOUVER  
BRITISH COLUMBIA V7X 1T2  
Attention: TM 76191W-1

RE: Trademark: METEOHEROES  
Applicant: METEO OPERATIONS ITALIA  
(MOPI)S.R.L.

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Yours truly,



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