



PERBADANAN HARTA INTELEK MALAYSIA
INTELLECTUAL PROPERTY CORPORATION OF MALAYSIA
(Agensi dibawah KPDN)



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**NOTIFICATION OF PROVISIONAL REFUSAL OF AN INTERNATIONAL REGISTRATION
DESIGNATING MALAYSIA**

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| 1. | Office making the notification : Intellectual Property Corporation of Malaysia (MyIPO) |
| 2. | Date of the provisional refusal : 02 August 2023 |
| 3. | International Registration Number : 1516084 |
| 4. | Malaysia Trademark Number : TM2022017002 Class Number(s) : 5 and 10 |
| 5. | Name of the Holder : Derkach Nataliia Mykolaivna |
| 6. | Representation of the mark : <div>Artro-Patch</div> |
| 7. | Basis for refusal : This partial provisional refusal is based on an ex-officio examination. |
| 8. | Scope of refusal in respects of goods and/or services: This refusal applies to some of the goods and/or services. The goods and/or services are as follows : Class 5 : 'all goods in class 5' Class 10 : 'nursing appliances' |

9. Grounds of Refusal :

- 9.1. This application is refused under Section 23(5)(a) of the Trademarks Act 2019 because the use of the trademark is likely to deceive or cause confusion to the public or contrary to any written law.

Objection:

Absorbent cotton; acai powder dietary supplements; acaricides; acetates for pharmaceutical purposes; acids for pharmaceutical purposes; acne treatment preparations; aconitine; adhesive plasters; adhesives for dentures; adhesive tapes for medical purposes; adjuvants for medical purposes; air deodorising preparations; air purifying preparations; albumin dietary supplements; albuminous foodstuffs for medical purposes; albuminous preparations for medical purposes; alcohol for pharmaceutical purposes; aldehydes for pharmaceutical purposes; algicides; alginate dietary supplements; alginates for pharmaceutical purposes; alkaline iodides for pharmaceutical purposes; alkaloids for medical purposes; alloys of precious metals for dental purposes; almond milk for pharmaceutical purposes; aloe vera preparations for pharmaceutical purposes; aluminium acetate for pharmaceutical purposes; amino acids for medical purposes; amino acids for veterinary purposes; anaesthetics; analgesics; angostura bark for medical purposes; animal washes [insecticides]; antibacterial handwashes; antibacterial soap; antibiotics; anticryptogamic preparations; antioxidant pills; antiparasitic collars for animals; antiparasitic preparations; antiseptic cotton; antiseptics; anti-uric preparations; appetite suppressant pills; appetite suppressants for medical purposes; aseptic cotton; asthmatic tea; astringents for medical purposes; babies' diaper-pants; babies' diapers; bacterial poisons; bacterial preparations for medical and veterinary use; bacteriological preparations for medical and veterinary use; balms for medical purposes; balsamic preparations for medical purposes; bandages for dressings; barks for pharmaceutical purposes; bath preparations for medical purposes; bath salts for medical purposes; bicarbonate of soda for pharmaceutical purposes; biocides; biological preparations for medical purposes; biological preparations for veterinary purposes; biological tissue cultures for medical purposes; biological tissue cultures for veterinary purposes; bismuth preparations for pharmaceutical purposes; bismuth subnitrate for pharmaceutical purposes; blood for medical purposes; blood plasma; bone cement for surgical and orthopaedic purposes; breast-nursing pads; bromine for pharmaceutical purposes; bronchodilating preparations; bunion pads; by-products of the processing of cereals for dietetic or medical purposes; cachets for pharmaceutical purposes; cachou for pharmaceutical purposes; calomel [fungicide]; camphor for medical purposes; camphor oil for medical purposes; candy for medical purposes; candy, medicated; capsules for medicines; carbolineum [parasiticide]; casein dietary supplements; castor oil for medical purposes; cattle washes [insecticides]; caustic

pencils; caustics for pharmaceutical purposes; cedar wood for use as an insect repellent; cellulose esters for pharmaceutical purposes; cellulose ethers for pharmaceutical purposes; cement for animal hooves; charcoal for pharmaceutical purposes; chemical conductors for electrocardiograph electrodes; chemical contraceptives; chemical preparations for medical purposes; chemical preparations for pharmaceutical purposes; chemical preparations for the diagnosis of pregnancy; chemical preparations for treating phylloxera; chemical preparations for veterinary purposes; chemical preparations to treat mildew; chemical preparations to treat wheat blight; chemical reagents for medical or veterinary purposes; chemico-pharmaceutical preparations; chewing gum for medical purposes; chilblain preparations; chinoline for medical purposes; chloroform; cocaine; cod liver oil; collagen for medical purposes; collodion for pharmaceutical purposes; collyrium; compresses; condurango bark for medical purposes; contact lens cleaning preparations; cooling sprays for medical purposes; corn remedies; corn rings for the feet; cotton for medical purposes; cotton sticks for medical purposes; cream of tartar for pharmaceutical purposes; creosote for pharmaceutical purposes; croton bark; cultures of microorganisms for medical or veterinary use; curare; decoctions for pharmaceutical purposes; dental abrasives; dental amalgams; dental amalgams of gold; dental cements; dental impression materials; dental lacquer; dental mastics; deodorants for clothing and textiles; deodorants, other than for human beings or for animals; depuratives; detergents for medical purposes; diabetic bread adapted for medical use; diagnostic biomarker reagents for medical purposes; diagnostic preparations for medical purposes; diagnostic preparations for veterinary purposes; diapers for incontinents; diapers for pets; diastase for medical purposes; dietary fiber; dietary supplements for animals; dietary supplements with a cosmetic effect; dietetic beverages adapted for medical purposes; dietetic foods adapted for medical purposes; dietetic substances adapted for medical use; digestives for pharmaceutical purposes; digitalin; dill oil for medical purposes; disinfectants; disinfectants for chemical toilets; disinfectants for hygiene purposes; disinfectant soap; dog washes [insecticides]; douching preparations for medical purposes; dressings, medical; drugs for medical purposes; elixirs [pharmaceutical preparations]; enzyme dietary supplements; enzyme preparations for medical purposes; enzyme preparations for veterinary purposes; enzymes for medical purposes; enzymes for veterinary purposes; ergot for pharmaceutical purposes; esters for pharmaceutical purposes; ethers for pharmaceutical purposes; eucalyptol for pharmaceutical purposes; eucalyptus for pharmaceutical purposes; extracts of hops for pharmaceutical purposes; febrifuges; eyepatches for medical purposes; fennel for medical purposes; ferments for pharmaceutical purposes; first-aid boxes, filled; fish meal for pharmaceutical purposes; flour for pharmaceutical purposes; flowers of sulfur for pharmaceutical purposes; fly catching paper; fly destroying preparations; fly glue; food for babies; formic aldehyde for pharmaceutical purposes; freeze-dried food adapted for medical purposes; freeze-dried meat adapted for

medical purposes; frostbite salve for pharmaceutical purposes; fumigating sticks; fumigation preparations for medical purposes; fungicides; gallic acid for pharmaceutical purposes; gamboge for medical purposes; gases for medical purposes; gauze for dressings; gelatine for medical purposes; gentian for pharmaceutical purposes; germicides; glucose dietary supplements; glucose for medical purposes; glycerine for medical purposes; glycerophosphates; greases for medical purposes; greases for veterinary purposes; guaiacol for pharmaceutical purposes; gum for medical purposes; gurjun balsam for medical purposes; hematogen; hemoglobin; hemorrhoid preparations; hemostatic pencils; herbal extracts for medical purposes; herbal teas for medicinal purposes; herbicides; homogenized food adapted for medical purposes; hormones for medical purposes; hydrastine; hydrastinine; hydrated chloral for pharmaceutical purposes; hydrogen peroxide for medical purposes; immunostimulants; infant formula; insecticidal animal shampoo; insecticidal veterinary washes; insecticides; insect repellent incense; insect repellents; iodides for pharmaceutical purposes; iodine for pharmaceutical purposes; iodoform; Irish moss for medical purposes; isotopes for medical purposes; jalap; jujube, medicated; lacteal flour for babies; lactose for pharmaceutical purposes; larvae exterminating preparations; laxatives; lead water; lecithin dietary supplements; lecithin for medical purposes; leeches for medical purposes; lice treatment preparations [pediculicides]; lime-based pharmaceutical preparations; liniments; linseed dietary supplements; linseed for pharmaceutical purposes; linseed meal for pharmaceutical purposes; linseed oil dietary supplements; lint for medical purposes; liquorice for pharmaceutical purposes; lotions for pharmaceutical purposes; lotions for veterinary purposes; lupulin for pharmaceutical purposes; magnesia for pharmaceutical purposes; malted milk beverages for medical purposes; malt for pharmaceutical purposes; mangrove bark for pharmaceutical purposes; media for bacteriological cultures; medical preparations for slimming purposes; medicated after-shave lotions; medicated animal feed; medicated dentifrices; medicated dry shampoos; medicated eye-washes; medicated hair lotions; medicated massage candles; medicated shampoos; medicated shampoos for pets; medicated soap; medicated toiletry preparations; medicinal alcohol; medicinal drinks; medicinal hair growth preparations; medicinal herbs; medicinal infusions; medicinal mud; medicinal oils; medicinal roots; medicinal tea; medicine cases, portable, filled; medicines for alleviating constipation; medicines for dental purposes; medicines for human purposes; medicines for veterinary purposes; melissa water for pharmaceutical purposes; menthol; mercurial ointments; milk ferments for pharmaceutical purposes; milking grease; mineral food supplements; mineral water salts; mineral waters for medical purposes; mint for pharmaceutical purposes; molding wax for dentists; moleskin for medical purposes; mothproofing paper; mothproofing preparations; mouthwashes for medical purposes; mud for baths; mustard for pharmaceutical purposes; mustard oil for medical purposes; mustard plasters; myrobalan bark for pharmaceutical purposes; narcotics;

nervines; nicotine gum for use as an aid to stop smoking; nicotine patches for use as aids to stop smoking; nutraceutical preparations for therapeutic or medical purposes; nutritional supplements; nutritive substances for microorganisms; oil of turpentine for pharmaceutical purposes; ointments for pharmaceutical purposes; opiates; opium; opodeldoc; opotherapy preparations; oxygen baths; oxygen for medical purposes; pants, absorbent, for incontinents; panty liners [sanitary]; paper for mustard plasters; parasitocides; pastilles for pharmaceutical purposes; pearl powder for medical purposes; pectin for pharmaceutical purposes; pediculicidal shampoos; pepsins for pharmaceutical purposes; peptones for pharmaceutical purposes; personal sexual lubricants; pesticides; petroleum jelly for medical purposes; pharmaceutical preparations; pharmaceutical preparations for skin care; pharmaceutical preparations for treating dandruff; pharmaceutical preparations for treating sunburn; pharmaceuticals; phenol for pharmaceutical purposes; phosphates for pharmaceutical purposes; phytotherapy preparations for medical purposes; plant extracts for pharmaceutical purposes; poisons; pollen dietary supplements; pomades for medical purposes; porcelain for dental prostheses; potassium salts for medical purposes; poultices; powdered milk for babies; powder of cantharides; pre-filled syringes for medical purposes; preparations for callouses; preparations for destroying dry rot fungus; preparations for destroying mice; preparations for destroying noxious animals; preparations for reducing sexual activity; preparations for the treatment of burns; preparations of microorganisms for medical or veterinary use; preparations of trace elements for human and animal use; preparations to facilitate teething; propolis dietary supplements; propolis for pharmaceutical purposes; protein dietary supplements; protein supplements for animals; purgatives; pyrethrum powder; quassia for medical purposes; quebracho for medical purposes; quinine for medical purposes; quinquina for medical purposes; radioactive substances for medical purposes; radiological contrast substances for medical purposes; radium for medical purposes; rat poison; reagent paper for medical purposes; reagent paper for veterinary purposes; remedies for foot perspiration; remedies for perspiration; repellents for dogs; rhubarb roots for pharmaceutical purposes; royal jelly dietary supplements; royal jelly for pharmaceutical purposes; rubber for dental purposes; salts for medical purposes; salts for mineral water baths; sanitary panties; sanitary tampons; sanitary towels; sarsaparilla for medical purposes; scapulars for surgical purposes; sea water for medicinal bathing; sedatives; semen for artificial insemination; serotherapeutic medicines; serums; sexual stimulant gels; siccatives [drying agents] for medical purposes; slimming pills; slug exterminating preparations; smelling salts; smoking herbs for medical purposes; sodium salts for medical purposes; soil-sterilising preparations; solutions for contact lenses; solvents for removing adhesive plasters; soporifics; starch for dietetic or pharmaceutical purposes; stem cells for medical purposes; stem cells for veterinary purposes; sterilising preparations; steroids; stick liquorice for pharmaceutical purposes; strychnine; styptic preparations; sugar for

medical purposes; sulfonamides [medicines]; sulfur sticks [disinfectants]; sunburn ointments; suppositories; surgical dressings; surgical glues; surgical implants comprised of living tissues; syrups for pharmaceutical purposes; tanning pills; tartar for pharmaceutical purposes; teeth filling material; therapeutic preparations for the bath; thermal water; thymol for pharmaceutical purposes; tincture of iodine; tinctures for medical purposes; tissues impregnated with pharmaceutical lotions; tobacco extracts [insecticides]; tobacco-free cigarettes for medical purposes; tonics [medicines]; transplants [living tissues]; turpentine for pharmaceutical purposes; vaccines; vaginal washes for medical purposes; vermifuges; vermin destroying preparations; vesicants; veterinary preparations; vine disease treating chemicals; vitamin preparations; vitamin supplement patches; vulnerary sponges; wadding for medical purposes; wart pencils; wheat germ dietary supplements; yeast dietary supplements; yeast for pharmaceutical purposes.

Specification of goods which includes poison and health products under the same trademark are not acceptable. The use of the same trademark for these products are considered as confusing and can be harmful to consumers.

Please identify specific goods which you seek for protection either poison or health products to overcome this provisional refusal.

9.2. Specification of goods and/or services

This application is refused under Section 19(1) of the Trademarks Act and Regulation 11 of the Trademarks Regulations 2019.

Class 10

- a. The description '*nursing appliances*' is vague. Please clarify the exact nature of the goods claimed for.

10. Relevant law :

The relevant provisions of the Trademarks Act 2019 are attached.

11. Respond to the refusal :

This provisional refusal will be reviewed if the holder amend the specification of goods and/or services by filing form **Fee Code TMB2** (RM100.00). Alternatively, the holder may request for a review against this provisional refusal with MyIPO by :

- a. Submitting written arguments against the refusal or
- b. Apply for a hearing by filing form **Fee Code TMC1** (RM 150.00) for each class

The request for review must be submitted through a registered trademark agent and must quote the International Registration number, Malaysia trademark number and class number(s). The holder must appoint a registered agent by filing form Fee Code TMR7 (RM20.00). The list of trademark agents can be accessed at <http://www.myipo.gov.my>

12. Timeframe for responding :

If the holder does not request for a review of this application or does not apply for an extension of time by **02 October 2023**, this refusal will become final.

Request for an extension of time to respond to this provisional refusal is possible by filing form **Fee Code TMK1** (RM50.00) and form **Fee Code TMK3** (RM 100.00) per month.

13. This refusal is issued by :

Asfa Azlie Khairiri (Ms)
for the Registrar of Trademarks
Malaysia

T: +603 – 7496 89001 E: asfa@myipo.gov.my

Trademarks Act 2019

19. (1) Goods or services shall be classified for the purposes of the registration of trademarks in accordance with a system of classification as prescribed.

Trademarks Regulations 2019

11. (1) Every application for registration of trademark, for each class of goods or services to which the application relates, shall contain the following:

(a) class number as provided in the classification of goods or services as specified in the Third Schedule; and

(b) a specification of those goods or services—

(i) which is appropriate to that class; and

(ii) which is described in such a manner—

(A) as to indicate clearly the nature of those goods or services; and

(B) as to allow those goods or services to be classified in accordance with the classification system as specified in the Third Schedule.

(2) For the purposes of paragraph (1)(b), the classification of goods or services as specified in the Third Schedule, which shall include such classification as set out in a pre-approved list made available by the Registrar, from which a specification may be adopted by the applicant.

(3) An application under subregulation (1) may be made in respect of more than one class of goods or services from the classification of goods or services as specified in the Third Schedule, and in such a case, paragraph (1)(b) shall apply for each class of the goods or services to which the application relates.

(4) In the case of an application for registration in respect of all the goods or services included in a particular class in the Third Schedule, or of a large variety of goods or services, the Registrar may refuse the application unless the Registrar is satisfied that the specification is justified by the use of the trademark which the applicant has made, or intends to make if and when the trademark is registered.

(5) When a trademark is registered, the trademark shall be classified according to the version of the system of classification of goods or services as specified in the Third Schedule which is in force on the date of filing of the application for registration of such trademark.

(6) In this regulation, “specification” means the specification of goods or services in respect of which a trademark is registered or intends to be registered.