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Geneva 20, Switzerland
World Intellectual Property
Organization(WIPO)International Bureau

CONFIRMATION OF TOTAL PROVISIONAL REFUSAL
TO THE INTERNATIONAL BUREAU OF WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)
UNDER RULE 18ter(3) OF THE REGULATIONS

1. Office of the Designated Contracting Party:

Korean Intellectual Property Office (KIPO)
189 Cheongsa-ro, Seo-gu, Daejeon Metropolitan City, 35208, Republic of Korea

2. International Registration concerned:

- (a) International Registration No. (International Registration date/Subsequent Designation Date):
1574744(11/11/2020)
- (b) Name of the Holder: Biosoft (Australia) Pty Ltd

3. Goods/Services Refused:

All the designated goods/services

4. Decision Subsequent to the Provisional Refusal:

All procedures before KIPO relating to the protection of the mark have been completed and the assigned examiner has decided to refuse protection of the International Registration in the Republic of Korea for all the designated goods/services.

5. Date on which the Confirmation was issued:

17/11/2023

6. Guidance for the appeal

The holder may file an appeal before the Intellectual Property Trial and Appeal Board (IPTAB).

- (1) Time limit to file an appeal is within three months from the date of receipt when the copy of the Decision for Refusal is received by a licensed attorney who is entitled to represent third parties in the Republic of Korea. [Article 116, Korean Trademark Act]
- (2) If the copy of the Decision of Refusal is received by the holder, who has neither domicile nor commercial establishment in Korea, the time limit is from the mailing date when the registered airmail is sent by KIPO. [Article 220(3), Korean Trademark Act]
- (3) In order to extend the time limit, a request for an extension of time limit must be filed within the given time limit. [Article 17(1)iii, Korean Trademark Act]

7. Official Seal or Signature by the Office:

KIPO Examiner Jinhee Bae 

<< Information >>

※ If the holder has any questions or needs assistance in responding to this notification, please contact the examiner. E-mail : kipomadrid@korea.kr, Representative Telephone Number : (+82) (42) 481 5532 (International Trademark Examination Division), Fax : (+82) (42) 472 3507

KOREAN TRADEMARK ACT

Article 4 (Legal Capacity of Minors, etc.)

(1) A minor, a quasi-incompetent placed under the protection of a legal guardian (only applicable where there is a legal representative related to trademark rights or rights relating to trademarks) or an adult placed under protection of a legal guardian may file an application or make a request for trademark registration or follow other procedures (hereinafter referred to as "trademark-related procedures") through his/her legal representative only: Provided, That the foregoing shall not apply where a minor or a quasi-incompetent placed under the protection of a legal guardian can independently perform a juridical act.

(2) A legal representative under paragraph (1) may follow procedures concerning a formal objection (hereinafter referred to as "formal objection") to trademark registration under Article 60 filed, or a trial or retrial requested by the other party without the consent of a legal guardian.

Article 6 (Trademark Manager of Non-Resident)

(1) Except where a person who is not domiciled or does not have his/her place of business in the Republic of Korea (hereinafter referred to as "non-resident") resides in the Republic of Korea, the non-resident (in cases of a corporation, referring to the representative thereof) may follow trademark-related procedures or bring a lawsuit against measures taken by an administrative authority in accordance with this Act or an order issued under this Act only through a person who is domiciled or has his/her place of business in the Republic of Korea (hereinafter referred to as "trademark manager") as an agent managing the trademark of the non-resident.

(2) A trademark manager shall represent his/her principal in a lawsuit with respect to trademark-related procedures or a disposition made by an administrative authority in accordance with this Act or an order issued under this Act, within the scope of authority delegated to him/her.

Article 17 (Extension, etc. of Period)

(1) The Commissioner of the Korean Intellectual Property Office may extend any of the following periods only once by not exceeding 30 days at the request of a party or ex officio: Provided, That in cases of persons living in a remote area, such as islands or remote rural areas, the Commissioner of the Korean Intellectual Property Office may additionally extend the number of times and periods, as prescribed by Ordinance of the Ministry of Trade, Industry and Energy:

1. Period for amending grounds, etc. for filing a formal objection under Article 61;

2. Period for requesting a trial against a decision to reject amendment under Article 115;
3. Period for requesting a trial against a decision to reject under Article 116.

(2) Where the Commissioner of the Korean Intellectual Property Office, the President of the Intellectual Property Trial and Appeal Board, the presiding judge or an examiner (hereinafter referred to as "examiner") under Article 50 has prescribed a period during which a person shall follow trademark-related procedures pursuant to this Act, he/she may shorten or extend such period at the request of a person who follows trademark-related procedures or his/her agent, or ex officio. In such cases, the Commissioner of the Korean Intellectual Property Office, etc. shall determine whether to shorten or extend the period so as not to unreasonably infringe interests of persons interested in the relevant procedures.

(3) Where the presiding judge or an examiner has prescribed a period during which a person is to follow trademark-related procedures pursuant to this Act, he/she may change such period at the request of a person who follows trademark-related procedures or his/her agent, or ex officio.

Article 28 (Time When Submission of Documents Takes Effect)

(1) Any written application, written request, or other document (including goods; hereafter in this Article, the same shall apply) submitted to the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Trial and Appeal Board pursuant to this Act or an order under this Act shall take effect from the date such written application, written request or other document is served on him/her.

(2) Where a written application, written request or other document under paragraph (1) is submitted to the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Trial and Appeal Board by mail, such written application, written request or other document shall be deemed served on him/her on the following dates: Provided, That where a written application for registration of trademark rights or the rights relating to the trademark is submitted by mail, such written application shall take effect from the date the written application is served on him/her:

1. Where the date indicated on the correspondence date stamp under the Postal Service statutes is clear: The date indicated;
2. Where the date indicated on the correspondence date stamp under the Postal Service statutes is unclear: The date a written application, written request or other document is submitted to a post office (referring to the date proved by a certificate of the receipt of mail).

(3) In addition to matters provided in paragraphs (1) and (2), delay in the delivery of mail, loss or theft of mail, and matters necessary to submit documents due to the interruption of postal service shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy.

Article 32 (Giving Notice, etc. Using Information and Communications Network)

(1) Where the Commissioner of the Korean Intellectual Property Office, the President of the Intellectual Property Trial and Appeal Board, the presiding judge, a judge, the chief examiner designated pursuant to Article 62 (3) (hereinafter referred to as "chief examiner") or an examiner intends to notify and serve documents (hereafter in this Article, referred to as "notification, etc.") on a person who has filed a report on the use of electronic documents pursuant to Article 31 (1), he/she may give notice, etc. using an information and communications network.

(2) Notification, etc. of documents under paragraph (1) shall be of the same effect as notice given in writing.

(3) Notification, etc. of documents under paragraph (1) shall be deemed delivered in the content recorded in a file of the electronic data processing system for dispatch used by the Korean Intellectual Property Office or the Intellectual Property Trial and Appeal Board when a person who receives such notification, etc. confirms such documents through the electronic data processing system he/she uses.

(4) Matters necessary for types, methods, etc. of notification, etc. using an information and communication network pursuant to paragraph (1) shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy.

Article 116 (Trial against Decision to Reject)

Where a person who receives a decision to reject trademark registration, decision to reject registration of additional designated goods or decision to reject registration of the conversion of the classification of goods (hereinafter referred to as "decision to reject") under Article 54 appeals against such decision, he/she may request a trial within three months from the date he/she is served with a certified copy of such decision to reject.

Article 220 (Service on Non-Resident)

(1) Where a non-resident has a trademark manager, any document to be served on such non-resident shall be served on his/her trademark manager: Provided, That the foregoing shall not apply where an examiner notifies an applicant for international trademark registration of grounds for rejection via the International Secretariat pursuant to Article 190.

(2) Where a non-resident does not have a trademark manager, any document to be served on such non-resident may be sent by registered airmail.

(3) Where a document is sent by registered airmail pursuant to paragraph (2), such document shall be deemed served on the date the document is sent.