

Notification of provisional refusal of an international registration designating New Zealand

1. **Office making the notification:** Intellectual Property Office of New Zealand
2. **Date of the notification of provisional refusal:** 21 November 2023
3. **Number of the international registration:** 1759990
Our reference: 1250834
4. **Representation of the mark:** The Pets Table
5. **Name of the holder:** Factor 75 B.V.
6. **Basis for refusal:** Provisional refusal based on an *ex officio* examination.
7. **Scope of refusal:** Provisional refusal for some of the goods and/or services, namely:

Class 35: retail store and on-line retail store services featuring subscription boxes containing pet products, pet food, pet beverages, supplements for pets, pet treats, prepared meals for pets, recipes for pets, pet toys, pet supplies, food, beverages, and supplements; mail order subscription services featuring pet products, pet food, pet beverages, supplements for pets, pet treats, prepared meals for pets, recipes for pets, pet health, pet toys, food, beverages, and supplements; retail store and on-line retail store services featuring pet products, pet food, pet beverages, supplements for pets, pet treats, prepared meals for pets, recipes for pets, pet toys, pet supplies, food, beverages, supplements, bags, clothing, meat, fish, poultry and game, seafood and shellfish, meat substitutes, potatoes, dairy products and substitutes therefor, nuts, eggs, broth, fruits, vegetables, meat extracts, soups, stocks, jellies, jams, compotes, milk and milk products, edible oils and fats; retail store and on-line retail store services featuring ready meals and snacks, cereals, rice, corn, flour and preparations made from cereals, bread, pastries and confectionery, bee products for culinary purposes, honey, treacle, yeast, baking-powder, salt, mustard, vinegar, sauces being condiments, spices, flavorings for beverages, ice, raw and unprocessed agricultural, horticultural, aquacultural and forestry products; retail store and on-line retail store services featuring processed grains and starches for food, and food products made therefrom, baking preparations, herbs, natural plants and flowers, foodstuffs and beverages for animals, malt, raw and unprocessed grains and seeds, non-alcoholic beverages, syrups and other preparations for making beverages, including in pre-portioned form, including for enabling meals and meals for pets to be cooked according to specific recipes, including enclosed recipes

8. Grounds for refusal:

We have examined your international registration designating New Zealand with reference to the Trade Marks Act 2002 (“the Act”), the Trade Marks Regulations 2003, (“the Regulations”) and our trade mark practice guidelines.

We cannot accept your designation now, for the reasons set out in this refusal. You have 1 year from the date of notification to address the issues raised in this report.

Deadline to respond to this refusal: 21 November 2024

Goods and/ or services unduly broad

Objection	Your class 35 specification includes:
	<p><u>retail store and on-line retail store services featuring subscription boxes containing pet products, pet food, pet beverages, supplements for pets, pet treats, prepared meals for pets, recipes for pets, pet toys, pet supplies, food, beverages, and supplements;</u></p> <p><u>mail order subscription services featuring pet products, pet food, pet beverages, supplements for pets, pet treats, prepared meals for pets, recipes for pets, pet health, pet toys, food, beverages, and supplements;</u></p> <p><u>retail store and on-line retail store services featuring pet products, pet food, pet beverages, supplements for pets, pet treats, prepared meals for pets, recipes for pets, pet toys, pet supplies, food, beverages, supplements, bags, clothing, meat, fish, poultry and game, seafood and shellfish, meat substitutes, potatoes, dairy products and substitutes therefor, nuts, eggs, broth, fruits, vegetables, meat extracts, soups, stocks, jellies, jams, compotes, milk and milk products, edible oils and fats;</u></p> <p><u>retail store and on-line retail store services featuring ready meals and snacks, cereals, rice, corn, flour and preparations made from cereals, bread, pastries and confectionery, bee products for culinary purposes, honey, treacle, yeast, baking-powder, salt, mustard, vinegar, sauces being condiments, spices, flavorings for beverages, ice, raw and unprocessed agricultural, horticultural, aquacultural and forestry products;</u></p> <p><u>retail store and on-line retail store services featuring</u></p>

	<p>processed grains and starches for food, and food products made therefrom, baking preparations, herbs, natural plants and flowers, foodstuffs and beverages for animals, malt, raw and unprocessed grains and seeds, non-alcoholic beverages, syrups and other preparations for making beverages, including in pre-portioned form, including for enabling meals and meals for pets to be cooked according to specific recipes, including enclosed recipes</p> <p>The above terms are too broad and vague as “featuring” is an inclusive, not limiting term.</p> <p>Please provide a more precise description of the services. You could consider amending “featuring” to “in relation to”.</p>
Relevant law	The relevant provisions of New Zealand law are listed below at 11.

9. Information relating to subsequent procedure:

Responding to this refusal

A response to this refusal can be made in writing via the IPONZ online case management system at www.iponz.govt.nz.

To respond, you will need to appoint a **local agent** to manage your New Zealand designation.

A local agent must have:

- an address for service in New Zealand or Australia, and
- an account in the IPONZ online case management system.

Note: If your designation has an international representative, you will still need to appoint a local agent to manage your New Zealand designation. Your local agent may or may not be the same as your international representative. We recommend that you engage the services of a local intellectual property professional to act as your local agent.

Timeframe for responding

If the holder does not respond by **21 November 2024**, this refusal becomes final for the specified goods and/or services.

Refusal still possible following opposition

If we subsequently accept the designation in New Zealand, refusal may still result from an opposition. The opposition period runs for three months from the date of advertisement of the mark. It is possible that an opposition may be filed more than 18 months from the date we were notified of the international registration.

10. Signature of the Office:

Intellectual Property Office of New Zealand

Holmes Parfitt
Senior Trade Mark Examiner
+64 4 901 6170
For the Commissioner of Trade Marks

11. Provisions of relevant law:

Trade Marks Act 2002

32 Application: how made

- (1) A person claiming to be the owner of a trade mark or series of trade marks may, on payment of the prescribed fee (if any), apply in the prescribed manner (if any) for the registration of the trade mark or series of trade marks used or proposed to be used in respect of the following:
 - (a) particular goods or services within 1 or more classes:
 - (b) particular goods and services within 1 or more classes.
- (2) The Commissioner must not register a trade mark in respect of all of the goods and services included in a class, or a large variety of goods or services, unless the specification is justified by the use or intended use of the sign.

Trade Marks Regulations 2003

45 Commissioner may request further information

The Commissioner may request further information from an applicant that will assist in the examination of the application.