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**O/Ref:** M963464/TM Inter/SCONG  
**Y/Ref:** International Registration Number M963464  
**Date:** 11 July 2008

**Please reply by 11 September 2008 quoting our reference.**

Dear Sir,

**Intl. Reg. No:** M963464 in Class 19  
**For the Mark:** HOME MARKET  
**Holder:** TAPIS SAINT MACLOU

**NOTIFICATION OF A PROVISIONAL TOTAL REFUSAL OF PROTECTION  
(NOT BASED ON AN OPPOSITION) BY THE UNITED KINGDOM  
INTELLECTUAL PROPERTY OFFICE.**

I have provisionally refused protection of this mark for all goods. My reasons are given in the enclosed Examination Report.

I have examined the designation and carried out a search of earlier national trade marks and Community and International trade marks which cover the UK.

The designation does not appear to meet the requirements for registration, for the reasons given in the enclosed Examination Report. The holder may provide further information in support of the application, or contact me to discuss it.

The holder has the right to request a hearing before a senior officer of the Registry to argue their case in relation to the objection raised under Section 3. A hearing can take place in person or over the telephone. If they would like a hearing, they should let me know as soon as possible.

If the holder wants to write to me, I will consider what they have to say and reply to them. However, they must provide a contact address in the European Community, the Isle of Man or the European Economic Area by filling in and returning a Form TM33

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(Request to appoint an agent or address for service).

The holder may obtain details of where to get independent professional help and advice from any of the following :

The Institute of Trade Mark Attorneys	<a href="http://www.itma.org.uk">www.itma.org.uk</a>
The Chartered Institute of Patent Agents	<a href="http://www.cipa.org.uk">www.cipa.org.uk</a>
The Law Society	<a href="http://www.lawsociety.org.uk">www.lawsociety.org.uk</a>

If the holder overcomes the objection raised under Section 3, they will wish to also be aware of the following information regarding earlier marks

### INFORMATION REGARDING EARLIER MARKS

The holder will see from my report that I have identified earlier marks that they should be aware of because they appear to be similar to the holder's mark and to cover goods or services that are the same as, or similar to, goods/services listed in this designation.

It is now up to the holder to decide whether or not they wish their designation to proceed as it stands notwithstanding these earlier marks. However, if they decide to proceed in this way, I am obliged to notify the holders of the earlier marks accordingly. Notifications go automatically to the holders of marks protected specifically in the UK and also to those holders of marks protected at EU level who have asked to receive such notifications.

If the holder proceeds, this designation will be published in the Trade Marks Journal to provide any third party with the opportunity to lodge an opposition. The holder should also know that if an opposition were to be successful, this would be likely to result in a costs award against the holder, which if the holder contests the opposition could be as much as several thousand pounds.

If the holder disagrees that the marks I have identified are confusingly similar, or they wish to delete some of their goods or services to try and avoid any notifications being sent, they should contact me and I will consider their comments. I should point out, however, that I can only allow them one opportunity to write to me. If they want to telephone me first to discuss these issues before they reply in writing, they should feel free to do so. After I have considered any written comments or amendments that they make, I will reply to them with my decision as to who, if anyone, should be notified about this designation and that decision will be final and not open to appeal.

The holder should be aware that even if I am persuaded not to send notifications to the earlier mark holders, they or anyone else may still successfully oppose the designation.

**If the holder does not reply by the date shown above, I will issue a letter informing you that the designation is finally refused.**

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Yours faithfully,



Sam Congreve  
**Trade Marks Examiner**

**International Registration No: 963464**

## **EXAMINATION REPORT**

International Registration No. 963464 in Class 19 has been examined under the UK Trade Marks Act 1994. References to 'section' in this report mean that section of the Act.

### **Absolute Grounds for Refusal (Section 3)**

The designation is provisionally refused under Section 3(1)(b) and (c) of the Act. This is because the mark consists exclusively of the words HOME MARKET being a sign which may serve, in trade, to designate the kind and intended purpose of the goods e.g. goods intended for the *home market*. The words when used on the goods claimed, such as building materials and wall coverings, etc would not be seen as a trade mark but merely as an indication as to the intended purpose of the goods, namely for use in the *home market*.

### **Class 19- Information regarding earlier rights and Specification**

Based solely on a comparison of the marks and goods/services, I consider the earlier mark(s) listed to be confusingly similar to your trade mark. It is now up to you to decide whether or not you wish your application to proceed as it stands. However, if you decide to proceed in this way, I am obliged to notify the earlier mark(s) accordingly. Notifications go automatically to the holders of marks protected specifically in the UK and also to those holders of marks protected at EU level who have asked to receive such notifications.

E4459384 (35)

**International Registration No: 963464**

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**(OHIM) E4459384**  
(RGSTRD)

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**E4459384** (35, 42)

Date Filed: 19 May 2005

Publication Date: 28 August 2006

Registration Date: 14 August 2006

Description of Colours Claimed: Orange, white.

**Class 35:** Marketing, import, export and representation of electrical goods, lighting and decoration.

**Homemarket - Comércio E Decoração S.A.,** Rua António Silva Marinho, nº 197, Ramalde, Porto, Portugal.

**Representative:** Paulo Graça, Avenida Almirante Reis 104 - 5ºB, Lisboa, 1150-022, Portugal.