

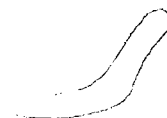
Notification of Provisional Refusal based on an Ex Officio Examination (to WIPO)

Pursuant to Rule 17(2) of the Common Regulations under the Madrid Agreement concerning the international registration of marks and the Protocol relating to that Agreement.

I. Name and address of the Office making the notification:

Norwegian Industrial Property Office Telephone: +47 22 38 73 00
P.O.Box 8160 Dep., N-0033 OSLO, NORWAY Telefax: +47 22 38 73 01

II. International registration: 1031242



III. Date of Subsequent Designation (if any):(yyyy.mm.dd)

IV. Holder of the international registration:

Christian Louboutin, 1 rue Volney, FR-75002 PARIS, Frankrike

V. The scope of the refusal:

☒ **Provisional refusal for all goods**

☐ **Provisional partial refusal for some of the goods and/or services**

VI. Grounds for refusal:

☒ **Absolute grounds: Trademark Act Section 14** - The trademark is considered to be devoid of any distinctive character and/or it can be used in trade to designate the goods in question. The mark consists of a high heeled shoe with a red sole. The use of a red color on the sole is not sufficiently distinctive in relation to what is ordinary for shoes. The average consumer may perceive the red sole merely as part of the design of the footwear rather as a designation of a commercial undertaking. Consequently, the mark does not fulfill the function of guaranteeing the origin of the products claimed, and must be refused.

☐ **Relative grounds:**
Likelihood of confusion with:

VII. The relevant provisions of the Norwegian Trademarks Act are under XI.

VIII. Date of provisional refusal: (yyyy.mm.dd) **2010.07.16**

Response must be received within: (yyyy.mm.dd) **2010.10.16**

See more information under X about the time limit and which actions you need to take if you want to request a review of the provisional refusal.

IX. Signature by the Office:

THE NORWEGIAN INDUSTRIAL PROPERTY OFFICE

Halldis Marie Hedenstad

(National reference no.: 201003101)

Number of continuation sheets: 1

- X.** The holder of the registration may request a review of the provisional refusal. The Norwegian Industrial Property Office must receive the request no later than 3 months from the date of this provisional refusal (The time limit is indicated under point VIII). Such request must provide an address of correspondence and be filed in Norwegian, Danish, Swedish or English. The Norwegian Industrial Property Office will respond in Norwegian. Please note that if The Norwegian Industrial Property Office, either subsequent to review or appeal, accept the designation of Norway, a post grant opposition may be filed against the mark within 3 months from the publication of the mark.

If the holder does not respond to this provisional refusal within the time limit, the international registration shall be considered abandoned in Norway for the goods/services that are excluded (Trademark Act Section 70 and 23). The international registration shall be resumed if the holder, within two months from the expiration of the time limit responds to the provisional refusal and pays the stipulated fee (NOK 650,-). Please note that The Norwegian Industrial Property Office does not send any notifications to the holder that the international registration is abandoned in Norway.

- XI.** The relevant provisions of the Norwegian Trademarks Act regarding the grounds of this provisional refusal:

Section 2 *Signs a trademark may consist of*

A trademark may consist of any sign capable of distinguishing the goods and services of one undertaking from those of others, such as words and combinations of words, including slogans, names, letters, numerals, figures and pictures, or the shape of the goods, their get-up or their packaging.

It is not possible to obtain trademark protection for signs which consist exclusively of a shape which results from the nature of the goods themselves, is necessary to obtain a technical result or gives substantial value to the goods.

Section 14 *General grounds for refusal*

A trademark which is to be registered must consist of a sign which can be protected in accordance with Section 2 and which is capable of being represented graphically. It must have distinctive character for the goods and services it applies to.

A trademark shall not be registered if it exclusively, or with no more than minor alterations or additions, consists of signs or indications which:

- a) designate the kind of goods and services, quality, quantity, purpose, value or geographical origin, the time of production of the goods or of rendering of the service, or other characteristics of the goods or services, or
- b) have become customary in the current language or in the bona fide and within established practices of the trade.

The trademark must comply with the provisions in first and second subparagraph on the date of application and the date of registration. In the assessment of subparagraph one second sentence and subparagraph two, all circumstances on the date of the application shall be taken into consideration, and in particular the consequences of use of the trademark before the application date.

A sign which, in trade, serves to designate the geographical origin of the goods or services, may be registered as a collective mark, without prejudice to the provisions in subparagraph two.