



## NOTIFICATION DE REFUS D' OFFICE

Notifiée au Bureau International de l' Organisation Mondiale de la Propriété Intellectuelle (OMPI)  
Conformément à la R è gle 17 (2) et la R è gle 17 (5)(e) du R è glement d' Exécution commun

I. Administration qui prononce le refus :

Office des Marques

Administration d' Etat de l' Industrie et du Commerce

1, Chama Nanjie, Xichengqu,

Tel: 8610-63219000

CN-100055 BEIJING

République Populaire de Chine

Fax :8610-68050285



II. Date à laquelle le refus est prononcé 2014/12/11

III. Notre numéro de Référence : GJZCG1196979BHFW01

IV. Enregistrement international No. : 1196979

V. Date de notification en Chine 2014/04/03

VI. Enregistrement national de base No. : 233 904

Dépôt national de base No. :

VII. Refus pour la totalité des produits et/ou des services.

VIII. Motifs de Refus :

marques antérieures nationales et/ou internationales.(voir Item XI)

Le signe déposé est similaire à la/aux marque(s) antérieure(s) .

Les produits et/ou services cités à la rubrique VII sont similaires aux produits et/ou services énumérés dans le dépôt ou l' enregistrement antérieur.

La Chine n'accepte pas les services de vente au détail et en gros dans la classe 35.

IX. Articles de la Loi chinoise applicable en la mati è re :

Article(s) : (Voir les extraits des lois et des r è glements)

La Loi sur Les Marques Article 30&31&22

X. Recours contre le refus :

1. Délais de recours : 15 jours à compter de la reception du present avis de refus.

2. Autorité compétente : Chambre d' examen et de decision en mati è re de marques.

3. Assistance obligatoire d' un mandataire ou un avocat local. ( Une liste en chinois des mandataires et des avocats est disponible sur le site Web ci-dessous:<http://www.ctmo.gov.cn> ou <http://sbj.saic.gov.cn>)

XI. Information concernant la/les marque(s) antérieure(s):

Nom de la marque :

OMT

Date de dépôt :

Numéro de dépôt :

1005820

Date de priorité :

Date d' enregistrement :

2008/11/27

Numéro d' enregistrement :

Madrid 1005820

Nom du titulaire :

OMT S.P.A.

Adresse du titulaire :

VIA LOMBARDIA,14 I-24040 CALVENZANO(BERGAMO)(ITALY)

Produits/services : classe 7

机动耕作机,即农用机械;水族馆用的充气泵;纸张制造机械;印刷辊;印刷压平机;织布机用的传动装置和绕线筒;染色机;干燥机械;制酒用的酒榨机,即机器;工业用的香烟制造机械;缝纫机;自行车组装机;动力驱动的陶工旋盘;雕刻机;制绳机;包装机(打包机);瓶子封口机械;电动开罐头器;洗碗盘机;洗衣机;玻璃加工机;化学工业用电动机械;油精炼机器;钻井平台;水泥搅拌机,即机器;挖土机,即挖掘机和推土机;移动人行道,即便道;卷扬机;起重机;运输工具,即机器;空气冷却蒸汽冷凝机,即机器的零部件;水力发电机和马达;水轮机;手持式电动钻孔机;用于光学制品的冷加工机械;涂漆机;液压千斤顶;带式输送机;电焊机;多用途高压洗涤器;家用电蜡抛光机;废料压实机;气体燃料的焊接设备;化学处理用的分解;搅拌机;机械和气动起重设备;起重机,即升降设备和起重设备;挤奶机;制酪机;孵卵器;收割机和犁,即农业设备和机械;动物剪毛机;将标签贴在箱子和瓶子上的自动化工业贴标签机械;电动真空吸尘器;车辆冲洗设备;化学处理用的捏拣机械;玉米和谷物的去壳机械;

▲待删商品▲

泵马达的适配器;罩套;非陆地车辆用弹性传动联轴节;液压油用的过滤器,即机器或者发动机的零部件;抽吸滤网;过滤器的丝网;泵的支架;小型电源组;作为机器的轴连接接头;万向节,万向节;用于清除油路的液压设备的测量绝缘体,即机器的零部件;用于操作液态气缸的液压和机械控制装置;机械的液压传动装置,引擎和发动机;用于安装计量装置的液压动力装置的支管、阀门和插销,即机器的零部件;热交换器,即机器的零部件;水油热交换器,即机器的零部件;空气和油的热交换器,即机器的零部件;接头,即发动机的组件;接头,上述不是用于陆地车辆的;过滤器,即机器或者发动机的零部件;泵膜片;泵,即机器;泵,即机器、发动机或者马达的零部件;可移动的过滤装置,即机器;活节联轴器,即发动机或者马达的零部件;减震器环圈,即机器或者发动机以及马达的零部件;减震器杆,即机器或者发动机以及马达的零部件;弹性传输连接装置,即机器或者发动机以及马达的零部件;法兰盘,即机器或者发动机以及马达的零部件;刨削机,即金属加工机械;圆锯,即金属加工机械;研磨机械;钻头,即机器的零部件;离心机;模压加工机器;矿井作业机械,即采矿钻孔机;矿砂处理机械;马达和发动机的催化剂转换器;切割机,即金属加工机械;气锤;印模冲压机;蒸汽机,上述不是用于陆地车辆的;柴油发动机,上述不是用于陆地车辆的;车床;刀片,即机器部件;攻丝机;挡板,即机器的零部件;工业自动化设备;机床防护板;机械台架;气体分离设备,即气体发生器;发电机;发电机刷;电流发电机;马达和引擎用风扇皮带;机器的电动机;非陆地车辆引擎;发动机活塞;陆地车辆的交流发电机;密封接头,即发动机的组件;马达和引擎用风扇;汽缸活塞;马达和引擎用消音器;止回阀,即机器的零部件;抽气阀;通风装置,即机器;机器、马达和引擎用的液压和气动控制装置;加热装置用泵;离心泵;空气压缩泵;空气冷凝器;气体传送装置;用于马达和发动机的水泵;用于马达和发动机的油泵;用于马达和发动机的液压油泵;真空泵,即机器;润滑油泵;施压阀,即机器的零部件;液压压力阀;调节器,即机器的零部件;非陆地车辆变速箱;机器联动机件;机器轴;机器、马达和引擎用曲柄轴箱;液压泵;液压压力泵;机器的联轴节;机器、引擎和发动机用连接杆;阀门,即机器的零部件;机器的制动衬垫;机械联轴器;油脂环,即机器的零部件;热水器,即机器的零部件;液压油加热器,即机器的零部

件；液压门开启器和关闭器,即机器的零部件；减震器活塞,即机器的零部件；蒸汽和油的分离器；传动轴轴承；铣床；钻孔机械；滚压机；注入塑料制模机械；工业机械的传动装置；传动链,上述不是用于陆地车辆的；减压器,即机器和马达的零部件；用于液体抽吸系统的变速传动装置；转矩变换器,上述不是用于陆地车辆的；机器的离合器；马达和发动机用起动机；燃料注入器；发动机的排气消音器；制动器片,上述不是用陆地车辆的；机器和发动机的皮带；内燃机用燃料转换装置；车辆散热器；马达和发动机用的散热器；滤油器；燃料油滤清器；机械用途的空气过滤器；机器汽缸；压缩空气的发生器；压缩机,即机器；粉碎机械和破碎机械,即金属加工机械；电动刀具；

Dessin :



Nom de la marque :

欧美特,OMT

Date de dépôt :

2003/10/08

Numéro de dépôt :

3743640

Date de priorité :

Date d' enregistrement :

2005/09/14

Numéro d' enregistrement :

Non-Madrid 3743640

Nom du titulaire :

CHANG ZHOU SHI JIE PIN BAI HUO YOU XIAN GONG SI OU MEI TE XIAN DAI BAN  
GONG YONG PIN CHAO SHI

Adresse du titulaire :

JIANG SU SHENG CHANG ZHOU SHI TIAN NING QU LAO DONG DONG LU 2 9 HAO  
CHINA

Produits/services : classe 35

张贴广告; 室外广告; 邮购订单形式的广告; 商业专业咨询; 商业信息; 推销(替他人); 替他人作  
中介(替其它企业购买商品或服务); 办公机器和设备出租; 文件复制; 自动售货机出租;

Dessin :



## Relevant Provisions of the Law and the Regulations

(Excerpts)

### Trademark Law of China

**Article 10** The following signs shall not be used as trademarks:

- (1) those identical with or similar to the State name, national flag, national emblem, national anthem, military flag, military emblem, military anthem, or decorations etc, of the People's Republic of China, and those identical with the names or symbols of the Central State government organizations, or with the names of the particular venues, where the Central State government organizations are located, or with the names or graphs of the symbolic buildings of the Central State government organizations;
- (2) those identical with or similar to the State names, national flags, national emblems or military flags etc, of foreign countries, unless consent has been given by the government of the relevant country;
- (3) those identical with or similar to the names, flags or emblems etc, of international intergovernmental organizations, unless consent has been given by the relevant organization or the public is not likely to be misled by such use;
- (4) those identical with or similar to official signs or hallmarks indicating control and warranty, unless authorization has been given;
- (5) those identical with or similar to names or symbols of the Red Cross or the Red Crescent;
- (6) those having the nature of discrimination against any nationality;
- (7) those having the fraudulence, which will easily mislead the public as to the features such as qualities of the goods, or the places of the origins;
- (8) those detrimental to socialist morality or customs, or having other unhealthy influences.

The geographical names of the administrative divisions at or above the county level or the foreign geographical names well-known to the public shall not be used as trademarks, but such geographical names as have otherwise meanings or as an element of a

collective mark or a certification mark shall be exclusive. Where a trademark using any of the above-mentioned geographical name has been approved and registered, it shall continue to be valid.

**Article 11** The following signs shall not be registered as trademarks:

- (1) those which consist exclusively of the generic names, designs, or models of the goods in respects of which the trademark is used;
- (2) those which consist exclusively of direct indications of the quality, primary raw material, functions, intended purpose, weight, quantity or other characteristics of goods;
- (3) other signs which are devoid of any distinctive character.

Where trademarks under the preceding paragraph have acquired distinctiveness through use and become easily distinguishable, they may be registered as trademarks.

**Article 12** Where a three-dimensional sign is applied for registration of a trademark, it shall not be registered if it consists exclusively of the shape which results from the nature of the goods themselves, the shape of goods which is necessary to obtain a technical result, or the shape which gives substantial value to the goods.

**Article 16** Where a trademark contains or consists of a geographical indication with respect to goods not originating in the place indicated, misleading the public as to the true place of origin, the application for registration shall be refused and the use of the mark shall be prohibited. But for those marks that have obtained registration in good faith shall continue to be valid.

Geographical indications mentioned in the preceding paragraph are indications that identify a particular good as originating in a region, where a given quality, reputation or other characteristics of the goods is essentially attributable to its natural or human factors.

**Article 22** An applicant for the registration of a trademark shall, in accordance with the prescribed classification of goods, in the application, indicate the class(es) and the indications of goods in respect of which the trademark is to be used.

An applicant can apply for the registration of the same trademark on the

different classes of goods through one application.

Applications for trademark registration and other related documents shall be submitted in writing or electronic format.

**Article 23** Where a registered trademark needs to acquire the exclusive right to be used in respect of goods beyond the approved range of use, a new application for registration shall be filed.

**Article 30** Where a trademark the registration of which has been applied for is not in conformity with the relevant provisions of this Law, or it is identical with or similar to the trademark of another party that has, in respect of the same or similar goods, been registered or, after examination, preliminarily approved, the Trademark Office shall refuse the application and shall not publish the said trademark.

**Article 31** Where two or more applicants apply for the registration of identical or similar trademarks for the same or similar goods, the preliminarily approval, after examination, and the publication shall be made for the trademark that was first filed. Where applications are filed on the same day, the preliminarily approval, after examination, and the publication shall be made for the trademark that was used earliest, and the applications of the others shall be refused and their trademarks shall not be published.

**Article 33** The prior right owner or any interested party who believes that the trademark stands in violation of the provisions of second and third paragraphs of Article 13, Article 15, first paragraph of Article 16,

Article 30, 31 and 32 of this law, or any party who believes that the trademark stands in violation of the provisions of Article 10, 11 and 12 of this law may, within three months from the date of the publication, file an opposition against the trademark that has, after examination, been preliminarily approved. If no opposition has been filed at the expiration of the specified period, the registration shall be approved, a certificate of trademark registration shall be issued and the trademark shall be published.

**Article 35** Where it is decided that the registration shall be approved by the

Trademark Office, a certificate of trademark registration shall be issued and the trademark shall be published. Where the Opponent is dissatisfied with the decision, he or it may, pursuant to Article 44 and 45 of this law, apply for a declaration that the trademark is invalid to the Trademark Review and Adjudication Board.

Where it is decided that the registration shall not be approved by the Trademark Office and the Opposed party is dissatisfied with the decision, he or it may, within fifteen days from receipt of the notification, apply for a review to the Trademark Review and Adjudication Board. The Trademark Review and Adjudication Board shall make a decision within twelve months from receipt of the application and notify both the Opponent and the Opposed party in writing. The administrative authority for industry and commerce under the State Council may grant a six-month extension under certain circumstances. Where the Opposed party is dissatisfied with the decision of the Trademark Review and Adjudication Board, he or it may, within thirty days from receipt of the notification, institute legal proceedings with the people's court. The people's court shall notify the Opponent as a third party to the litigation.

**Article 42** Where a registered trademark is assigned, the assignor and assignee shall sign an agreement for the assignment and jointly file an application with the Trademark Office. The assignee shall guarantee the quality of the goods in respect of which the registered trademark is used.

When a registered trademark is to be assigned, the trademark registrant shall assign in a lump all of its similar trademarks in respect of the identical goods, or, identical or similar trademarks in respect of the similar goods.

With respect to applications for the assignment of registered trademarks, which may produce confusion or other adverse effects, the Trademark Office shall refuse them, and shall notify the applicants in writing and give the reasons therefor.

The assignment of a registered trademark shall be published after it has been approved.

The assignee shall enjoy the exclusive right to use the trademark from the date of publication.

**Article 50** Where a registered trademark has been cancelled, invalidated or has not been renewed at the expiration, the Trademark Office shall, during one year from the date of the cancellation, invalidation or expiration, approve no application for the registration of a trademark that is identical with or similar to the said trademark.

## **Regulations for the Implementation of Trademark Law**

**Rule 13** Anyone who applies for registration of a trademark shall file an application based on the published Classification of Goods and Services. For each application for registration of a trademark, the applicant shall submit to the Trademark Office one copy of the Application for Trademark Registration and one copy of reproduction of the trademark; if applying for the registration of the combination of colors or a sign with the designated color or colors as a trademark, one copy of colored reproduction of the trademark and one copy of the black and white design shall be submitted; if applying for the registration of trademark without designated color or colors, the black and white design shall be submitted.

The reproductions of a trademark must be clear, easy to be pasted up, printed on smooth and clear durable paper or use photographs as a substitute, and the length and breadth of which shall be not more than ten centimeters and not less than five centimeters each.

If applying for the registration of a three-dimensional sign as a trademark, the applicant shall make a statement in the application, explain how to use the trademark, and submit a reproduction including perspectives of at least three different sides of the mark thereof by which the three-dimensional shape can be determined.

If applying for the registration of the combination of colors as a trademark, the applicant shall make a statement in the application, and explain how to use the trademark.

If applying for the registration of a sound

as a trademark, the applicant shall make a statement in the application, submit the audio reproduction as requested, describe the sound and explain how to use the trademark. The description shall describe the said sound by musical notation or numbered musical notation with explanatory words; if the said sound could not be described by musical notation or numbered musical notation, it shall be describe in words. The trademark description shall be in conformity with the sound sample.

If applying for the registration of a collective mark or a certification mark, the applicant shall make a statement in the application, and submit the documents certifying the qualifications of the subjects and the rules on the administration of the use of the mark.

Where a trademark is, or consists of, foreign words, their Chinese meanings shall be indicated.

**Rule 15** The class(es) and indications of goods or services shall be listed in the application as specified in the Classification of Goods and Services; where any goods or services are not included in the Classification of Goods and Services, a description of the goods or services in question shall be attached to the application.

Applications for trademark registration and other related documents submitted in writing shall be typewritten or printed.

The preceding paragraph applies to other trademark affairs.

**Rule 19** Where two or more applicants apply respectively on the same day for the registration of identical or similar trademarks in respect of the same or similar goods, both or all of the applicants shall, within 30 days from the date of receipt of the notification of the Trademark Office, submit the evidence of prior use of such trademarks before applying for registration. Where the use started on the same day or none is yet in use, both or all of the applicants may, within 30 days from the date of receipt of the notification of the Trademark Office, conduct consultations on their own and submit a written agreement to the Trademark Office; if they are not willing to conduct consultations or they fail to reach an agreement through consultations, the

Trademark Office shall notify both or all of the applicants to determine one of them by drawing lots and refuse the applications for registration filed by others. Where an applicant has been notified by the Trademark Office but fails to participate in the drawing of lots, the application filed by such an applicant shall be considered abandoned, and the Trademark Office shall notify the applicant in writing who does not participate in the drawing of lots.

**Rule 43** Anyone who applies for the territorial extension to China, and requests for the protection of a three-dimensional sign, combination of colors or sound as a trademark, or the protection of collective trademark or certification trademark, within three months from the date of recording the trademark in the International Register, shall submit the materials required by Rule 13 through the trademark agency established in accordance with laws in China. If the applicant fails to submit the relevant materials within the time limit, such application shall be refused.

**Rule 45** The opponent who is in conformity with Article 33 of The Trademark Law may file an opposition to the Trademark Office against a request for territorial extension to China within 3 months from the first day of the next month following the publication of the International Registration Gazette by the World Intellectual Property Organization.

The Trademark Office shall notify the International Bureau the opposition in the form of provisional refusal before the expiry of the applicable refusal period.

The Opposed party may make a response within 30 days from receipt of the provisional refusal transmitted by the International Bureau. The response and other related evidence shall be submitted through the trademark agency established in accordance with laws in China.

**Rule 47** For the assignment of territorial extensions designating China, the assignee shall have a real and effective industrial or commercial establishment in, or be domiciled in a contracting party, or be a national of a contracting state or a state member of a contracting organization.

Where an assignor fails to assign in a lump all his or its identical or similar marks in

respects of the same or similar goods or services, the Trademark Office shall notify the holder of international registration to rectify the situation within 3 months from the date of the notification; if the situation is not rectified at the expiration of the time limit, or if the assignment of a trademark is likely to produce confusion or bears other adverse effects, the Trademark Office shall decide that the said assignment has no effect in China, and declare it to the International Bureau.

**Rule 48** For the limitation of list of goods and services of territorial extensions designating China, if the limitation does not comply with the requirements on the classification of goods or services enforced in China, or enlarges the original list of goods and services, the Trademark Office shall decide that the limitation has no effect in China, and declare it to the International Bureau.

## **Administrative Reconsideration Law**

**Article 9** Any citizen, legal person or any other organization, who considers that a specific administrative act has infringed upon his or its lawful rights and interests, may file an application for administrative reconsideration within 60 days from the day when he or it knows the specific administrative act, except that the time limit prescribed in laws exceeds 60 days.

If the time limit prescribed by law is delayed due to force majeure or other special reasons, the time limit shall be accounted continuously from the day when the obstacle is removed.

## **Administrative Procedure Law**

**Article 39** If a citizen, a legal person or any other organization brings a suit directly before a people's court, he or it shall do so within three months from the day when he or it knows that a specific administrative act has been undertaken, except as otherwise provided for by law.