|  |
| --- |
| 18 janv/Jan 2021 |
| *Votre référence Your File* |
| *Notre référence Our File*1920191 |
| *Numéro EI IR Number* |

|  |
| --- |
| Satinder Dhillon33474 Kingsley TerraceAbbotsfordBRITISH COLUMBIA V2S 6J6 |
|  |
| RE: | Trademark: | People's Party of Canada |
|  | Applicant: | Satinder Dhillon |

This examiner's report concerns the above identified application. To avoid abandonment proceedings, a proper response must be received by this office by July 18, 2021. All correspondence respecting this application must indicate the file number.

As this application was filed prior to, and not advertised as of, June 17, 2019 it has been re-examined under the provisions of the amended Trademarks Act and the new Trademarks Regulations.

The applicant is requested to confirm that the associated services originate from CANADA, as research shows that this word is primarily a geographic name. Services originate from a geographic location if they are performed, provided or offered there.

If the services originate from CANADA, then the trademark as a whole clearly describes the character and place of origin of those services and is therefore unregistrable pursuant to paragraph 12(1)(b) of the Trademarks Act.

Alternatively, if the services do not originate from CANADA, then the trademark as a whole deceptively misdescribes the character and place of origin of those services. The average Canadian consumer or dealer would be misled into the belief that the services originate from CANADA, and therefore the trademark is unregistrable pursuant to paragraph 12(1)(b) of the Trademarks Act.

Therefore, in view of the provisions of paragraph 12(1)(b) of the Trademarks Act, the trademark does not appear registrable.

For further reference, the undersigned has provided, below, the definition of people’s party, retrieved from the Merriam-Webster online dictionary.

a political party representing or claiming to represent the great majority of the inhabitants of a territorial unit (as a nation) as opposed to a particular class or group

The word "character" means a feature, trait or characteristic of the goods and services. The test of whether a trademark is clearly descriptive considers the immediate first impression of the average Canadian user, purchaser, or consumer of the associated goods and services.

One of the most important purposes of paragraph 12(1)(b) of the Trademarks Act is to protect the right of all traders to use apt descriptive language. The courts have recognized that descriptive words are the property of all and cannot be appropriated by one person for their exclusive use since this would give them an unfair advantage over competitors in the same trade.

Moreover, pursuant to paragraph 37(1)(d) of the Trademarks Act, it appears that the trademark is not distinctive.

The Registrar’s preliminary view is that the trademark is not inherently distinctive. In particular, the applicant’s political party services pertain to the people’s party of Canada. If an objection is raised because the trademark is clearly descriptive or deceptively misdescriptive under paragraph 12(1)(b), the Examiner will also raise an objection under paragraphs 37(1)(d) and 32(1)(b).

Pursuant to paragraph 32(1)(b) of the Act, the applicant may wish to furnish the Registrar with evidence establishing that the trademark was distinctive at the filing date of the application for its registration. Alternatively, the applicant may wish to provide, in writing, information which would persuade the Registrar to withdraw the objection that the trademark is not, on a preliminary view, inherently distinctive.

The applicant’s written comments with respect to this matter are invited.

Pursuant to paragraph 30(2)(a) of the Trademarks Act, an application for the registration of a trademark must contain a statement in ordinary commercial terms of the associated goods and services. Furthermore, section 29 of the Trademarks Regulations requires that the statement must describe each of those goods or services in a manner that identifies a specific good or service. It is considered that the following services are not in specific and ordinary commercial terms: political party.

For further guidance on redefining the statements of services, please refer to the Goods and Services Manual available on our website. This searchable tool is not an exhaustive list of acceptable terms, but it may be used as a guide to the specificity and ordinary commercial term requirements of the Trademarks Act and its Regulations.

The applicant is required to file an amended application, using the e-service on the CIPO website at [www.cipo.ic.gc.ca](http://www.cipo.ic.gc.ca/), by fax at 819-953-2476 or by mail at the following address:

Registrar of Trademarks

Place du Portage I

50 Victoria Street, room C-114

Gatineau, QC K1A 0C9

If the applicant has any specific questions in respect of this Office action, please contact the assigned examiner. Please note that for general inquiries, including assistance with filing of the revised application, queries about the status of an application or receipt of correspondence, you may contact our Client Service Centre toll free at 1-866-997-1936.

Yours truly,



Julia Colasante

Examination Section

819-639-5080

fax: 819-953-2476