

KENYA INDUSTRIAL PROPERTY INSTITUTE



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Our Ref: T.M.A. No. 107476

Date: 26th July 2024

Your Ref: 6191000

Coulson Harney LLP
P.O. Box 10643 - 00100
Nairobi

Dear Sirs

**TRADE MARK APPLICATION NO. 107476 "TEXAS CHICKEN" (WORDS) IN THE
NAME OF CANJUN FUNDING CORP**

I refer to the above-mentioned matter and your letter dated 11th June 2020.

It is noted that in letters dated 23rd September 2019 and 13th March 2020, the Registry of Trade Marks declined to approve your above trade mark for publication and registration for the reason that the mark was descriptive of the goods and services with respect to which it was sought to be registered, contrary to the provisions of section 12 of the Trade Marks Act. The mark was sought to be registered with respect to goods and services in classes 29 and 43 of the Nice Classification of Goods and Services for Purposes of Registration of Marks (the Nice Classification).

In your above-mentioned letter, you stated that you did not agree with the examination reports issued to you on 23rd September 2019 and 13th March 2020 for the following reasons, *inter alia*:

- (a) The Applicants' trade mark has been entered in the Register of Trade Marks in various other jurisdictions globally;
- (b) The Applicants' similar trade mark, "TEXAS CHICKEN" (WORDS AND DEVICE), has been entered in the Register of Trade Marks in Kenya under TMA No. 105446;
- (c) The Applicants' similar trade mark has been entered in the Register of Trade Marks in Kenya with a disclaimer of the right to the exclusive use of the words

"TEXAS" and "CHICKEN", each separately and apart from the mark as a whole. Therefore, the Applicants had already entered a disclaimer of the right to the exclusive use of the words "TEXAS" and "CHICKEN" with respect to the application to register the above trade mark TMA No.107476; and

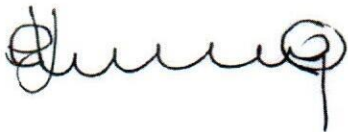
- (d) There is no evidence that the State of Texas in the USA is well-known for the production of chicken. This means that the consumers of the goods and services in classes 29 and 43 of the Nice Classification would not assume that these goods and services originate from Texas.

It is my view that your above trade mark would be described as laudatory, when sought to be registered with respect to goods and services in classes 29 and 43 of the Nice Classification. The practice at the Registry of Trade Marks is to allow such trade marks to proceed to publication with a disclaimer of the respective laudatory words. It is noted that you have already entered a disclaimer of the right to the exclusive use of the words "TEXAS" and "CHICKEN", each separately and apart from the mark as a whole. For this reason, I hereby approve the above trade mark to proceed to publication.

Therefore, I conclude that:

- (a) Your application T.M.A No.107476 is hereby allowed to proceed to publication in accordance with the provisions of the Trade Marks Act; and
- (b) The Examination Reports dated 23rd September 2019 and 13th March 2020 that were issued by the Registry of Trade Marks, relating to your above trade mark are hereby revoked.

Yours faithfully



Eunice Njuguna
Assistant Registrar of Trade Marks