

**COPY**



May 26, 2023

Susannah C. Rolston  
Direct Dial (416) 862-4634  
susannah.rolston@gowlingwlg.com

The Registrar of Trademarks  
Place du Portage I  
50 Victoria Street, Room C-114  
Gatineau, Quebec K1A 0C9

ISDE-ISED Canada AAAA/MMJJ-YYYY/MMDD  
 2023/05/29  
150 - 23  
OPIC-CIPO C006069556

**Attention: Wanda Lockheed, Examination Section**

Dear Ms. Lockheed:

Re: Canadian Trademark Application  
Trademark : **CRAYON SCENT MARK**  
Applicant : Crayola Properties, Inc.  
Application No. : 1,986,544  
Our Reference : T6805831CA

This is in response to the Examiner's Report dated May 25, 2022.

The Examiner's Report objects that the applied-for CRAYON SCENT MARK is not distinctive pursuant to paragraph 37(1)(d) of the *Trademarks Act*.

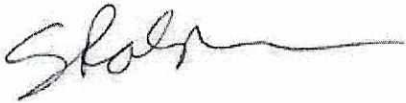
The Applicant respectfully asks the Registrar to reconsider this matter and to withdraw the raised distinctiveness objection given that the applied-for CRAYON SCENT MARK is actually distinctive of the Applicant's goods. To show the actual distinctness of the applied-for CRAYON SCENT MARK, the Applicant hereby submits the Affidavit of ALBERT P. MAURO, JR. and accompanying exhibits. The Affidavit shows that:

- Crayola has meticulously manufactured quality crayons bearing the CRAYON SCENT MARK since as early as 1905; paragraph 10;
- the CRAYON SCENT MARK has been noted in scholarly articles as being one of the world's most famous scents, and is recognized by consumers as being exclusively tied to Crayola; paragraph 28; and
- over the past years, Crayola has regularly and extensively used its the CRAYON SCENT MARK in Canada.

As a result of this extensive use of the CRAYON SCENT MARK by Crayola and various third party articles, comments, and recognition relating to said mark, the CRAYON SCENT MARK has become intrinsically linked with, and is instantly recognizable as a trademark and strong symbol of Crayola, and this has been the case since well before September 24, 2019 (the filing date of the subject application. Therefore, the CRAYON SCENT MARK is highly distinctive and registrable.

We look forward to receiving confirmation that this application has been approved for advertisement in the Trademarks Journal.

Yours very truly,



Susannah C. Rolston  
Registered Trademark Agent,  
Gowling WLG (Canada) LLP

Encls.



May 26, 2023

**Registrar of Trademarks**  
Trademarks Office  
Gatineau, Quebec K1A 0C9  
Canada

**Application number:** 1986544

## **AMENDED APPLICATION FOR THE REGISTRATION OF A TRADEMARK**

### **COVERING LETTER REMARKS**

Attention: Wanda Lockhead, Examination Section

This is in response to the Office Action issued May 25, 2022.

The Examiner raised a substantive objection under paragraph 37(1)(d) of the Trademarks Act. Please find attached our letter of today, May 26, 2023 addressing the Examiners objection. Please note that we are submitting today electronically only partial evidence, namely the Affidavit of Albert P. Mauro Jr.

In addition we enclose an amended application wherein the scent description has been revised per the Examiner's request.

Due to their size, the Affidavit exhibits will be filed later today, May 26, 2023, by way of physical delivery to the Trademarks Office in the form of a USB key containing the Exhibits A to Z and AA to XX to the Affidavit of Albert P. Mauro Jr.

We look forward to receiving confirmation that this application has been approved for advertisement in due course.

Should you have any questions regarding this matter, please contact the undersigned at 416-862-4634.

Yours very truly,  
Susannah C. Rolston  
Registered Trademark Agent, Gowling WLG (Canada) LLP

### **Submitted by**

**Olga Malyuk**  
**Gowling WLG (Canada) LLP**  
Suite 1600, 1 First Canadian Place  
100 King Street West  
Toronto, ON  
M5X 1G5  
Canada

### **Applicant details**



**CRAYOLA PROPERTIES, INC.**

1100 Church Lane  
Easton, PA  
18044  
United States

**Language of the application:** English

**Agent details Updated**

The applicant appoints the individual agent or all the agents at the firm shown below as its trademark agent, as defined in the Trademarks Regulations.

**GOWLING WLG (CANADA) LLP**

SUITE 1600  
1 FIRST CANADIAN PLACE  
100 KING STREET WEST  
TORONTO  
ON  
M5X1G5  
Canada

**Telephone number:** 416-862-7525

**Fax number:** 416-862-7661

**Attention to:** Susannah C. Rolston

**Reference:** T6805831CA

**Name of the individual trademark agent (not firm) submitting this correspondence:** Susannah C. Rolston

**Address for service details Deleted**

15 Mary St West  
Crayola Canada Marketing Department  
Lindsay, ON  
K9V 4R8  
Canada

**Trademark details Updated**

**Trademark reference:**

CRAYON SCENT MARK

**Trademark type(s):**

Scent

The trademark consists in whole or in part of a scent.

**Full Description: Updated**

The trademark consists of the scent of a slightly earthy soap with pungent, leather-like clay undertones.

**Nice Class Edition 11****Goods**

**Class:** 16

**Statement:** *generated from the pre-approved list*  
(1) crayons;

## **Closing details Updated**

---

### **Additional documentation: Updated**

1986544 CRAYON SCENT MARK - Office Action Response - Ltr to CIPO.pdf  
1986544\_Albert P. Mauro, Jr.\_affiant\_2023-05-25.pdf

OPIC-CIPO C006069555

150 - 23

2023/05/29

AAAA/MM/JJ-YY/MM/DD



ISDE-ISED Canada

