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| RIDOUT & MAYBEE LLP  250 University Avenue  5th Floor  Toronto  ONTARIO M5H 3E5 | | |
| Attention: Elliott J. Gold | | |
| RE: | Trademark: | SIGNATURE |
|  | Applicant: | Primera Technology, Inc. |

This examiner's report concerns the above identified Protocol application. To avoid abandonment proceedings, a proper response must be received by this office by November 20, 2021. All correspondence respecting this Protocol application must indicate the file number.

This Protocol application has been examined under the provisions of the *Trademarks Act* and *Trademarks Regulations*.

In view of paragraph 12(1)(d) of the *Trademarks Act* the trademark does not appear to be registrable since it is considered confusing with registered trademark no. TMA1,093,109 particulars of which are attached.

In addition, in view of paragraph 37(1)(c) of the *Trademarks Act*, the trademark does not appear to be entitled to registration. Specifically, the priority entitlement date of June 20, 2019 of the subject Protocol application is later than the entitlement date of April 1, 2019 of co-pending and confusing application no. 1,954,621, particulars of which are attached.

In assessing whether there is a reasonable likelihood of confusion between the trademark and the cited trademarks, the Registrar must have regard to the provisions of subsection 6(2) of the *Trademarks Act*, which provides that:

The use of a trademark causes confusion with another trademark if the use of both trademarks in the same area would be likely to lead to the inference that the goods or services associated with those trademarks are manufactured, sold, leased, hired or performed by the same person, whether or not the goods or services are of the same general class.

The Registrar must consider all the surrounding circumstances including those stated in subsection 6(5) of the Act:

(a) the inherent distinctiveness of the trademarks or tradenames and the extent to which they have become known;

(b) the length of time the trademarks or tradenames have been in use;

(c) the nature of the goods, services or business;

(d) the nature of the trade;

(e) the degree of resemblance between the trademarks or tradenames in appearance or sound or in the ideas suggested by them.

Confusion is tested in terms of the average consumer’s first impression of the one trademark and imperfect recollection of the other mark, and not by a side-by-side scrutiny. The “average consumer” is a likely buyer of the associated goods or services who has an average education in English and/or French.

Any comments the applicant may wish to submit in writing will receive consideration.

The applicant is required to file a written response, 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 Protocol 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,



Jacqueline Szwarc

Examination Section

819-635-5228

fax: 819-953-2476