

Trademark Refusal in Cambodia: How "MONTECONO" Overcame Two Cited Marks?

In the complex landscape of cross-border trademark protection, it is not uncommon for marks designated for protection in Cambodia under the Madrid System to face provisional refusals. Yet the challenge escalates significantly when the grounds for refusal stem not from similarity to a single cited mark, but to two well-established trademarks simultaneously. This is more than a procedural setback; it places the applicant before a near-impenetrable legal framework, where the line between similarity and likelihood of confusion becomes a focal point of intricate legal debate.

Upon the **Department of Intellectual Property of Cambodia (DIP)** issuing a provisional refusal notice for trademark "**MONTECONO**" (International Registration No. 1523946), on grounds of "likelihood of confusion" with the esteemed marks "**Zott Monte**" (Germany) and "**DEL MONTE**" (USA), many believed the path to protection was irrevocably closed. The "**MONTECONO**" mark found itself ensnared in a dense legal framework where avenues for counter-argument appeared severely constrained stringent examination standards that seemed to present no discernible weaknesses for rebuttal.

However, by deploying a **multi-pronged rebuttal**, integrating strong legal reasoning, strategic marketing insights, and an understanding of consumer psychology, alongside the astute legal strategy of **KENFOX IP & Law Office**, the case defied typical expectations. It illuminated a novel approach to navigating trademark examination challenges, turning a seemingly "insurmountable" obstacle into a significant and **valuable precedent**.

Background

The DIP provisionally refused to grant protection to trademark "**MONTECONO**" (IR No. 1523946) for goods falling under Class 30. The grounds for refusal cited **confusing similarity** with the following marks:

- "**Zott Monte**" of Zott SE & Co. KG (Germany) – A registered mark used for analogous goods, prominently featuring the "MONTE" component.
- "**DEL MONTE**" of Del Monte Foods, Inc. (USA) – A renowned trademark widely recognized within the processed food industry.

Applied-for mark	Cited mark 1	Cited mark 2
MONTECONO		DEL MONTE

Appeal Strategy: Distinguishing Between "Similarity" and "Likelihood of Confusion"

At first glance, the concurrent presence of the element "MONTE" across three trademarks "MONTECONO," "Zott Monte," and "DEL MONTE" may lead examiners to a surface-level impression of similarity. While such an initial visual reaction might appear reasonable, it poses a significant risk of oversimplifying the trademark comparison process as applied in actual legal practice. The textual overlap, though apparent, can mislead perception and create an illusion of semantic or market-related association. In reality, the intrinsic character of each mark depends on its overall composition, functional use, and specific commercial context. If this "visual trap" is not deconstructed through multi-layered analysis, it may result in premature conclusions and a departure from proper examination standards.

The [appeal strategy](#) developed by KENFOX IP & Law Office is anchored on three principal pillars, each supported by robust legal reasoning and compelling evidence, that directly informed and influenced the assessment process undertaken by DIP.

1. In-Depth Analysis of the Absence of Likelihood of Confusion

The central argument advanced herein is that the trademark "MONTECONO" does not give rise to confusion with the cited trademarks. To substantiate this position, a comprehensive comparative analysis was conducted across multiple dimensions, visual appearance, word structure, phonetic characteristics, and semantic content, alongside consideration of the relevant goods and services.

- **Structure - Commercial Visual Impression:** "MONTECONO" consists of a single, uninterrupted word comprising nine black capital letters, forming a cohesive and distinctive visual identity. By contrast,



- "("Zott Monte") visually separates the blue "Monte" element from the white "Zott" mark placed within a red circle above. "DEL MONTE", likewise, is clearly structured as two separate lexical components. These pronounced differences in formatting, color, and typographic presentation result in divergent commercial impressions, thereby undermining any visual similarity that may have been inferred in the refusal decision.
- **Phonetic Differentiation:** "MONTECONO" is articulated as four syllables (/MON/TE/CO/NO/), presenting a longer and rhythmically distinct phonetic profile. In comparison, "Zott Monte" and "DEL MONTE" are limited to three syllables each (/ZOTT/MON/TE/ and /DEL/MON/TE/ respectively), with varying stress patterns. Such phonetic dissimilarity enhances consumer recall and constitutes a key factor in assessing confusion risk, as auditory cues are often the primary mode of brand recognition in commercial interactions.
- **Semantic Distinctiveness:** Semantically, "MONTECONO" is a coined term lacking inherent meaning in any commonly used language. Conversely, "Zott Monte" blends the commercial name "Zott" with "Monte," which may carry meanings such as a card game or a notion of certainty, depending on linguistic context. "DEL MONTE" represents a well-established [trade name](#). The absence of recognizable semantic content in "MONTECONO" is thus advantageous, preserving its distinctiveness and preventing erroneous associations with known marks entrenched in the marketplace.

Legal Conclusion: Based on the multidimensional analysis set out above, the mere presence of the shared "Monte" element is insufficient to support a finding of likelihood of confusion. Given the clear differentiators in visual structure, phonetic expression, and semantic content, "MONTECONO" qualifies as a standalone and distinctive mark that does not infringe upon the rights associated with the cited trademarks.

2. International Precedent: Persuasive Evidence from Reputable Intellectual Property Authorities

To substantiate the position that no likelihood of confusion exists, reference was made to international legal precedents of high evidentiary value. Specifically, the trademark "MONTECONO" and other marks incorporating the element "MONTE" have been successfully registered and protected in several jurisdictions, including Singapore, the Philippines, and Laos, each renowned for their rigorous and exacting standards for trademark distinctiveness.

The core argument relied on leveraging examination outcomes in IP regimes of high credibility, such as Singapore and the Philippines, to illustrate the independent commercial distinctiveness of "MONTECONO." The fact that the mark was approved for protection, notwithstanding the simultaneous presence of other "MONTE"-based marks in those jurisdictions, serves as objective evidence of its clear differentiation in terms of visual impression, phonetic structure, and semantic interpretation.

While recognition that examination standards may vary across legal systems is acknowledged, the acceptance of "MONTECONO" by respected intellectual property offices provides a valuable reference point. This argument not only broadens the evaluative perspective available to the Cambodian examiner but also introduces a form of constructive pressure, suggesting that if advanced jurisdictions have deemed the mark registrable, there exists no inherent justification for Cambodia to diverge from global protection trends.

More substantively, the international consensus on the distinctiveness of "MONTECONO" carries weight beyond its legal implications; it represents commercial acknowledgment in practice. The mark has been received, identified, and utilized as an independent brand across multiple markets, further reinforcing its non-confusing nature within the context of contemporary legal and commercial frameworks.

3. Domestic Precedent in Cambodia: A Foundation for Equitable Examination Principles

A strategically significant point lies in the identification and presentation of a domestic precedent in Cambodia, wherein another trademark containing the element "MONTE" within Class 30 was granted protection.



Specifically, trademark registration () No. KH/2012/40197, filed by PHAN NAM MONTE ROSA TRADING JOINT STOCK COMPANY, was approved by the Department of Intellectual

Property of Cambodia (DIP) on 29 February 2012, despite containing the element "MONTE" and having no ownership relation to the [cited marks](#) "Zott Monte" or "DEL MONTE".

The fact that both "Zott Monte" and "DEL MONTE" were registered by DIP for goods in Class 30, despite sharing the element "MONTE" and belonging to unrelated legal entities, clearly demonstrates that the presence of "MONTE" is not, in itself, a determinative factor of distinctiveness. Rather, the overall structural configuration, graphical presentation, and visual identifiers of the marks are sufficiently distinctive to enable consumers to recognize and differentiate among them.

This argument not only underscores the diversity found in DIP's own prior examination practices but also establishes an internal standard of consistency in the evaluative approach. If other trademarks containing "MONTE" have been afforded protection, rejecting "MONTECONO" raises legitimate concerns regarding procedural fairness and transparency. Each trademark incorporating "MONTE" warrants assessment on its own merits and in its individual context, rather than being subjected to overly generalized assumptions.

We further emphasize that while "similarity" and "confusion" are related concepts, they are by no means synonymous. The mere presence of similar elements does not automatically translate into consumer confusion. The appropriate inquiry is whether the degree of similarity exceeds the threshold for confusion, and in this instance, "MONTECONO" demonstrably functions as an independent and distinctive identifier, without impairing marketplace perception.

Conclusion

Supported by a sharply structured legal framework and an array of highly [persuasive evidence](#), we successfully persuaded the Department of Intellectual Property of Cambodia to withdraw its provisional refusal against the trademark "MONTECONO" under International Registration No. 1523946. The subsequent decision to grant protection not only reaffirmed the mark's inherent distinctiveness and strong capacity for differentiation, but also served as a compelling testament to the effectiveness of a meticulously crafted and strategically sound appeal.

The outcome was facilitated by the flexible application of Cambodia's Intellectual Property Law, combined with a nuanced consideration of the widespread acceptance of the mark in various other jurisdictions. This result represents not merely a legal victory for HARIGOVINDRAJU, but also a valuable case study underscoring the importance of rigorous preparation and robust legal argumentation when navigating trademark registration hurdles internationally.

For KENFOX IP & Law Office, this success marks a significant affirmation of its pioneering position in the field of intellectual property within the region, built not only upon extensive practical experience, but also through a demonstrated capacity to transform sophisticated legal reasoning into tangible and effective protection outcomes.

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