

**MADRID AGREEMENT CONCERNING
THE INTERNATIONAL REGISTRATION OF MARKS
AND PROTOCOL RELATING TO THAT AGREEMENT
PROVISIONAL REFUSAL OF PROTECTION**

Notified to the World Intellectual Property Organisation (WIPO)
according to Article 5 of the Madrid Agreement and Madrid Protocol

I. Office making the notification of refusal
PATENT OFFICE OF THE REPUBLIC OF LATVIA
7/70, Citadeles iela
LV 1010, Rīga
LATVIA

Phone 371 67099604
Fax 371 67099650

II. Number of the international registration which is the subject of refusal **1 300 447**

III. Name of the holder of the international registration concerning the subject of refusal
Obshchestvo s ogranichennoy otvetstvennostyu
"Konditerskaya fabrika "POBEDA"
ul. Ryabinovaya, 26, stroenie 2
RU-121471 Moscow (RU)

IV. The grounds of refusal: Opposition submitted by **ORKLA CONFECTIONERY & SNACKS LATVIA, SIA**, Miera iela 22, Rīga, LV-1001, LV, holder of national registrations **M 62 623 /LĀCĪTIS ĶEPAINĪTIS/** and **M 69 721 /Laima Lācītis ķepainītis (fig.)/**

V. Reference to the corresponding essential provisions of the Law of the Republic of Latvia on Trade Marks and Indications of Geographical Origin (see materials attached):
Section 18, 39 (5) and (6). Opposition is based on Section 7. (1)2; 8. (1).

VI. ☒ **Refusal for all the goods and services.**
☐ Refusal for the following goods and services:

VII. Possibilities to review or appeal
The holder is entitled, within three months from the date on which the International Bureau has notified of the Provisional Refusal, to submit a substantiated appeal to the Patent Office through a professional local patent attorney (Law On Trade Marks and Indications of Geographical Origin, Section 17.¹; Law on Industrial Property Institutions and Procedures, Section 58). After expiration of the said period the Board of Appeal shall take a decision to satisfy the opposition, fully or in part, or to dismiss it. The case can be reviewed, within three months from the date of notification of the Board of Appeal's decision, by a civil action initiated before the Riga City Vidzeme Suburb Court.

VIII. Date on which the refusal was pronounced **09.09.2016**

IX. Signature and seal of the office making the notification of refusal
Head of International trademark Division **Līga Rinka**

L. Rinka 

Section 18. Opposition to the Registration of a Trade Mark

(1) Within three months from the date of the publication of a trade mark, interested persons may file with the Patent Office an application for opposition to the registration of a trade mark. The filing of the application for opposition, the progress and examination of it shall be executed/carried out according to the provisions of the Law on Industrial Property Institutions and Procedures.

[21 October 2004][19 November 2015]

Section 39. Validity of an International Registration in Latvia

[..]

(4) The Patent Office shall examine internationally registered trade marks to ascertain their compliance with the requirements of Sections 6 and 8 of this Law. In the case of registration of a collective mark it shall also be ascertained whether the by-laws on the use of the collective mark have been included in the registration, in compliance with the provisions of Section 35, Paragraph four of this Law.

(5) An application for opposition to the entry into effect of an international registration of a trade mark in Latvia, as provided for in Section 18 of this Law, shall be filed within four months from the date of publication of a notice of trade mark registration with respect to Latvia (territorial extension to Latvia) in the official gazette of international registration of trade marks.

(6) If, as a result of an examination, it is determined that an international trade mark does not comply with the requirements of Paragraph four of this Section, or if an opposition has been filed to such registration, the Patent Office shall, within the terms and in accordance with the procedures laid down in the rules on the international registration of trade marks, notify the International Bureau of the refusal of the particular international registration (provisional refusal). Within three months from the date on which the International Bureau has notified of the refusal, the owner of the international registration is entitled to submit a notice of appeal (a reply to the application for opposition) as provided for in Section 17.¹ of this Law.

Section 7. Earlier Trade Marks as Grounds for Invalidation of Trade Mark Registration

(1) A trade mark registration may be declared invalid in accordance with the provisions of this Law in the following cases:

1) it is identical to an earlier trade mark, and the goods or services in respect of which the trade mark was registered are identical to the goods or services in respect of which the earlier trade mark was registered;

2) in connection with its identity or similarity to, an earlier trade mark belonging to another person and the identity or similarity of the respective goods or services, there exists a likelihood of confusion of the trade marks or a likelihood of association between the trade marks on behalf of the relevant consumers.

(2) Earlier trade marks within the meaning of Paragraph one of this Section are:

1) trade marks valid in Latvia, which have been registered under national or international registration procedures, or as European Community trade marks (hereinafter – Community trade mark) in accordance with Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (codified version) (Text with EEA relevance) (hereinafter – Council Regulation No 207/2009) if the date of application for registration thereof is earlier than the date of application for registration of the contested trade mark, also taking into account the priority accorded to those trade marks;

2) applications for the registration of trade marks referred to in the previous Clause, provided that they are registered.

[21 October 2004; 14 October 2010]

Section 8. Well-known Trade Marks as Grounds for Refusal or Invalidation of Trade Mark Registration

(1) Notwithstanding the provisions of Section 7 of this Law, a trade mark registration may be refused or, if registered, the registration may be invalidated under the provisions of this Law, if the trade mark constitutes a reproduction, an imitation, a translation or a transliteration, liable to create confusion, of another trade mark, which, even though unregistered, was well-known in Latvia with respect to identical or similar goods or services, on the date of filing of application of the applied for (opposed) registration of trade mark (or the date of priority if priority has been granted).

(2) In addition to the provisions of Paragraph one of this Section, the registration of a trade mark may be refused or invalidated also if the goods or services regarding which trade mark registration has been applied for are not similar to the goods or services covered by a well-known trade mark in Latvia, provided that the use of the trade mark applied for (opposed) in relation to such goods or services may be perceived by consumers as an indication of a connection between such goods and services, and the owner of the well-known trade mark, and that such use may be detrimental to the interests of the owner of the well-known trade mark.

(3) In determining whether a trade mark is well-known, the knowledge of this trade mark in the relevant group of consumers, including such knowledge in Latvia that has been obtained as a result of the advertising of this mark or any other circumstances that have contributed to its fame shall be taken into account.

(4) In determining in which cases the provisions of Paragraphs one and two of this Section are to be applied to a sign regarding which registration has been applied for or to a registered trade mark, the provisions of Article 6-bis of the Paris Convention regarding a well-known trade mark shall be taken into account, including the provision which provides for the prohibition of the reproduction or the imitation of a well-known trade mark in an essential part of another trade mark; these provisions shall also apply, *mutatis mutandis*, to service marks.

(5) The provisions of Paragraphs one and two of this Section regarding refusal of registration during the expert-examination procedure shall not apply if the application for trade mark registration has been filed with the consent of the owner of the well-known trade mark.

Preču zīmes dati

(111) Reģ. Nr. M 62 623

(151) Reģ. dat. 20.09.2010

(210) Pieteik. M-09-1373

(220) Pieteik. dat. 23.12.2009

(181) Spēkā esamības paredzamais termiņš 23.12.2019

LĀCĪTIS ĶEPAINĪTIS

(730) Īpašnieks ORKLA CONFECTIONERY & SNACKS LATVIJA, SIA; Miera iela 22, Rīga, LV-1001, LV

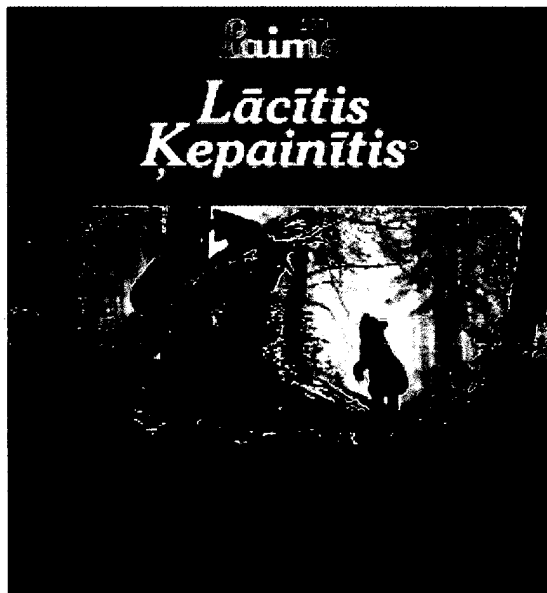
(740) Pārstāvis Gatis MERŽVINSKIS, Aģentūra "PĒTERSONA PATENTS"; Ausekļa iela 2 - 2, Rīga, LV-1010, LV

(511) 30 konditorejas izstrādājumi, to skaitā konfektes, vafeles, vafeļu tortes, šokolāde un šokolādes izstrādājumi

Statuss: zīme reģistrēta

Preču zīmes dati

(111) Reģ. Nr. M 69 721 (151) Reģ. dat. 20.04.2016
(210) Pieteik. M-15-747 (220) Pieteik. dat. 10.06.2015
(181) Spēkā esamības paredzamais termiņš 10.06.2025
(531) CFE ind. 3.1.14; 3.1.20; 3.1.28; 6.19.5; 25.1.19; 29.1.15



(591) Krāsu salikums gaiši zils, zils, zaļš, zeltains, dzeltens, brūns, melns, balts
(730) Īpašnieks ORKLA CONFECTIONERY & SNACKS LATVIJA, SIA; Miera iela 22, Rīga, LV-1001, LV
(740) Pārstāvis Gatis MERŽVINSKIS, Aģentūra "PĒTERSONA PATENTS"; Ausekļa iela 2 - 2, Rīga, LV-1010, LV
(511) 30 šokolāde un šokolādes izstrādājumi, to skaitā šokolādes tāfelītes, šokolādes batoniņi, šokolādes konfektes, saldumu tāfelītes; graudu pārslu batoniņi; konfektes ar krēma, marmelādes, pomādes, pralinē un vafeļu pildījumu; vafeļu tortes; saldējums; konditorejas izstrādājumi; saldētas tortes; kakao masa
Statuss: zīme reģistrēta