



Intellectual
Property
Office

Concept House
Cardiff Road, Newport
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World Intellectual Property
Organisation (WIPO)
International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

Your Reference:
International Registration No:
WO0000001315700
Examiner: Rachael Lewis
Direct Telephone: +44(0)1633 813632
Date: 22 February 2017

Intl Reg No: WO0000001315700

Mark: (3D)

Holder: "GRAND CANDY" LLC

Class(es): 30

Dear Sirs,

**Notification Of A Provisional Total Refusal Of Protection Based On An
Opposition By The United Kingdom Intellectual Property Office In
Accordance With Article 5 Of The Madrid Protocol**

I am writing to inform you that following receipt of an opposition to the above trade mark, it is necessary to issue this formal provisional refusal letter. This provisional refusal covers all of the goods and services of the International Registration.

Please find attached a copy of the TM7 'Notice of Opposition', which includes details of any marks referred to in the statement of case, which was received by the United Kingdom Trade Mark Registry. Copies of these documents have been sent to the holder informing them of this provisional refusal.

If the holder of the International Registration wishes to file a counterstatement, they must complete the form TM8 'Notice of defence and counterstatement', which is available at ipo.gov.uk/tmforms and **return it to this office** within **two months** of the date of this letter; i.e. on or before **24 April 2017**. This period cannot be extended, except in the circumstances described below. The holder should note that failure to file a TM8 will result in the provisional refusal being upheld.

If both parties to this dispute wish to negotiate and want to enter a 'cooling off period' then the time for filing the TM8 can be extended for a further seven months by the filing the form TM9c 'Request for a cooling off period, which is available at ipo.gov.uk/tmforms

The TM8 should be received on or before the date requested above unless a cooling off period is entered into by the parties.

The holder of the International Registration must provide us with an address for correspondence in the United Kingdom, another EEA state or the Channel Islands on a form TM33 'Appointment or change of agent or contact address', which is available at ipo.gov.uk/tmforms within this two month period.

If one is not provided within this time the refusal will be made final.

Yours faithfully,

Rachael Lewis

Trade Marks Registry



Intellectual
Property
Office

J787861/ 0001 D02835 TM07.....
.20FEB17 200.00 ACCOUNT 0P000408558

MS-IP0-LONDON
17/FEB/2017

Form TM7

Notice of opposition and statement of grounds

- Fee ☐ £100 Opposition based on Section 5(1) and/or 5(2) ONLY
- ☒ £200 Opposition based on, or including, any other grounds

Note: If you wish to oppose under Section 5(1) and/or 5(2) and one or more other grounds, the fee will be £200

Use this form to notify of an opposition to a trade mark application or international registration and to set out the grounds on which you are basing this opposition.

Do not use this form if you wish to file a Fast Track opposition under Section 5(1) and/or 5(2): use Form TM7F.

1. Trade mark number Number of the trade mark you are opposing. If the opposition concerns an International Registration, help us identify the correct trade mark by adding "IR"	IR 1315700
2. Full name of applicant/holder Whose trade mark you are opposing	"Grand Candy" LLC
3. Full name of opponent Person opposing the trade mark	Orkla Confectionery & Snacks Finland Ab
Address If the address is not within the United Kingdom, European Economic Area (EEA – which includes the European Union) or the Channel Islands you must have a representative in one of these regions and complete section 4 below	Sundsvägen 420 GODBY 22410 Finland Postcode
Email address Complete if you have no representative and would like us to correspond with you by email	
4. Representative name If you have no representative, go to section 5.	Urquhart-Dykes & Lord LLP
Address The address provided in this section must be in the UK, European Economic Area (EEA) or the Channel Islands. NOTE: We will communicate with the representative if this section has been completed.	One Euston Square 40 Melton Street London Postcode NW1 2FD
Email address Complete if you would like us to correspond with you by email	london@udl.co.uk

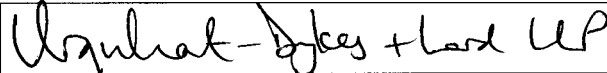
5. Related proceedings If applicable, select location of any related proceedings and enter the case number allocated to the proceedings.	IPO Registry		UK Courts		EUIPO
	Number				

6. Opposition notification date
 If you have informed the applicant/holder of an intention to oppose the trade mark application, designation – enter the date you notified them.
 [**See Note]

16/01/2017

****Note:** An opposition launched without giving the applicant or holder a reasonable opportunity to withdraw the application, international designation or amendment may result in the opponent being ineligible for an award of costs.

7. Declaration
 I believe that the facts stated in this form and the attached statement of grounds are true.

Signature


Name
 (BLOCK CAPITALS)
 URQUHART-DYKES & LORD LLP

Date
 17/2/17

8. Your reference
 Complete if you would like us to quote this in communications with you, otherwise leave blank.

G120607OP/ATS

Contact details
 Name, daytime telephone number of the person to contact in case of query.

Anna Szpek
 020 7667 6640

Number of sheets ^{in total} ~~attached to this form~~

37

Checklist

Please make sure you have remembered to:

- ☐ Sign and date the form
- ☐ Complete fee sheet (Form FS2)
- ☐ Enclose the fee and fee sheet. Make cheques payable to Intellectual Property Office

Where to send

Intellectual Property Office
 Trade Marks Registry
 Concept House
 Cardiff Road
 Newport
 South Wales
 NP10 8QQ

Please tick on what grounds you are opposing the trade mark and continue to the relevant section(s)



Opposition is based on Sections 5(1) or 5(2): The trade mark is either identical or similar to an earlier trade mark and is to be registered for identical and/or similar goods and services.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier trade mark.

> **COMPLETE SECTION A**

Opposition is based on Section 5(3): The trade mark is either identical or similar to an earlier trade mark which has a reputation. Using the later mark would take unfair advantage of, or be detrimental to, the distinctive character or reputation of the earlier mark.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier trade mark. Ticking this box means that the total fee for this form is £200.

> **COMPLETE SECTION B**



Opposition is based on Section 5(4)(a): Where the use of the applicant's trade mark would be contrary to law, in particular, the law of passing off.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier right. Ticking this box means that the total fee for this form is £200.

> **COMPLETE SECTION C**

Opposition is based on Section 3: The trade mark is excluded from registration because it describes the goods/services, or is not distinctive, or consists of signs that are customary within the trade, or the application was made in bad faith.

Note: Ticking this box means that the total fee for this form is £200.

> **COMPLETE SECTION D**

Opposition is based on other grounds.

Note: Ticking this box means that the total fee for this form is £200.

> **COMPLETE SECTION E**

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number

Your trade mark

949832

Type of mark

Please tick

<input checked="" type="checkbox"/>	UK	<input type="checkbox"/>	EUTM	<input type="checkbox"/>	International
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Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

<p>PANDA</p>

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?

☒

Yes

☐

No > GO TO Q4

Q3. Has the trade mark been used?

☒

Yes

☐

No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1 or Q3a (whichever is applicable)?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and e.g. why you consider the respective marks or goods and/or services to be similar.

The earlier mark is the word 'PANDA' which is distinctive of the goods of the earlier mark. The mark of the application is the image of a panda which means goods with the image will be referred to as "Panda" products. This means the marks are conceptually identical. The goods "confectionery" in the application are identical to those of the earlier mark. The goods "preparations made from cereals, bread and pastry" and "ices" are all highly similar goods to confectionery. There is a lower level of similarity between the remaining goods. This close similarity between the marks together with the identity or similarity of the goods will result in a likelihood of confusion.



Current case details for UK Trade Mark Number: UK00000949832

Printed On: 14 February 2017

Trade mark

Trade mark: PANDA

Status: Registered

Relevant dates

Filing date: 18 October 1969

Date of entry in register: 18 October 1969

Renewal date: 18 October 2024

List of goods

Class 30: Chocolate, chocolates; sugar confectionery and liquorice confectionery, none being medicated; but not including any such goods incorporating biscuits or any goods in the form of animals.

Name and Address details

Owner(s) name: Orkla Confectionery & Snack Finland
Ab

PO Box 3, 40801 Vaajakoski, Finland

[View owner's other trade marks](#)

IPO representative name: Wildbore & Gibbons LLP
Sycamore House, 5 Sycamore Street,
London, United Kingdom, EC1Y 0SG

Publication details
First advert:
Journal : 4894 Date of publication : 14 June 1972

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Intellectual Property Office is an operating name of the Patent Office

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
✓	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number
Your trade mark 591271

Type of mark Please tick	<input type="checkbox"/> UK	<input checked="" type="checkbox"/> EUTM	<input type="checkbox"/> International
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Representation of your trade mark
Enter your trade mark in the space provided - use a continuation sheet if necessary.

Panda

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?

☒

Yes

☐

No > GO TO Q4

Q3. Has the trade mark been used?

☒

Yes

☐

No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

> GO TO Q4.

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1 or Q3a (whichever is applicable)?

✓	All goods and services
	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

The earlier mark is the stylised word 'PANDA' which is distinctive of the goods of the earlier mark. The mark of the application is the image of a panda which means goods with the image will be referred to as "Panda" products. This also means the marks are conceptually identical. The goods "confectionery" in the application are identical to those of the earlier mark. The goods "preparations made from cereals, bread and pastry" and "ices" are all highly similar goods to confectionery. There is a lower level of similarity between the remaining goods. This similarity between the marks together with the identity of the goods will result in a likelihood of confusion.

EUTM file information

Panda
000591271

Graphic representation



Trade mark information

Name	Panda	Filing date	06/06/1997
Filing number	000591271	Registration date	30/04/2003
Basis	EUTM	Expiry date	06/06/2017
Date of receipt	06/06/1997	Designation date	
Type	Figurative	Filing language	Finnish
Nature	Individual	Second language	English
Nice classes	30 (Nice Classification)	Application reference	XE0169
Vienna Classification	27.05.01 (Vienna Classification)	Trade mark status	Registered
		Acquired distinctiveness	No

Goods and services

English (en) ☒

30 Non-medicated confectionary, liquorice and chocolate.

Owners

Orkla Confectionery & Snacks Finland Ab

ID	259364	Country	FI - Finland	Correspondence address	
Organisation	Orkla Confectionery & Snacks Finland Ab	State/county	n/a	Orkla Confectionery & Snacks Finland Ab	Can be accessed and changed by authorised user via the User Area
		Town	GODBY	Sundsvägen 420	
		Post code	22410	FI-22410 GODBY	
Legal status	Legal entity	Address	Sundsvägen 420	FINLANDIA	Can be accessed and changed by authorised user via the User Area
					Can be accessed and changed by authorised user via the User Area

Trade mark relations

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number

Your trade mark

8684961

Type of mark

Please tick

<input type="checkbox"/>	UK	<input checked="" type="checkbox"/>	EUTM	<input type="checkbox"/>	International
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Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

<div>PANDA</div>

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?

☒

Yes

☐

No > GO TO Q4

Q3. Has the trade mark been used?

☒

Yes

☐

No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

> GO TO Q4.

[illegible]

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1 or Q3a (whichever is applicable)?

✓	All goods and services
	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

The earlier mark is the word 'PANDA' which is distinctive of the goods of the earlier mark. The mark of the application is the image of a panda which means goods with the image will be referred to as "Panda" products. This also means the marks are conceptually identical. The goods "confectionery" in the application are identical to those of the earlier mark. The goods "preparations made from cereals, bread and pastry" and "ices" are all highly similar goods to confectionery. There is a lower level of similarity between the remaining goods. This similarity between the marks together with the identity of the goods will result in a likelihood of confusion.



Protect your intellectual property in the European Union

EUTM file information

PANDA
008684961

Trade mark information

Name	PANDA	Filing date	13/11/2009
Filing number	008684961	Registration date	29/04/2010
Basis	EUTM	Expiry date	13/11/2019
Date of receipt	13/11/2009	Designation date	
Type	Word	Filing language	Finnish
Nature	Individual	Second language	English
Nice classes	30 (Nice Classification)	Application reference	BV202285
Vienna Classification		Trade mark status	Registered
		Acquired distinctiveness	No

Goods and services

English (en) ☒

30 Non-medicated confectionary, liquorice and chocolate.

Owners

Orkla Confectionery & Snacks Finland Ab

ID	259364	Country	FI - Finland	Correspondence address	
Organisation	Orkla Confectionery & Snacks Finland Ab	State/country	n/a	Orkla Confectionery & Snacks Finland Ab	Can be accessed and changed by authorised user via the User Area
		Town	GODBY	Sundsvägen 420	
		Post code	22410	FI-22410 GODBY	
Legal status	Legal entity	Address	Sundsvägen 420	FINLANDIA	Can be accessed and changed by authorised user via the User Area
					Can be accessed and changed by authorised user via the User Area

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number

Your trade mark

10398618

Type of mark

Please tick

<input type="checkbox"/>	UK	<input checked="" type="checkbox"/>	EUTM	<input type="checkbox"/>	International
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Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.



Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?

☒

Yes

☐

No > GO TO Q4

Q3. Has the trade mark been used?

☒

Yes

☐

No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

--

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1 or Q3a (whichever is applicable)?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and e.g. why you consider the respective marks or goods and/or services to be similar.

<p>The earlier mark is the stylised word 'PANDA' which is distinctive of the goods of the earlier mark. The mark of the application is the image of a panda which means goods with the image will be referred to as "Panda" products. This also means the marks are conceptually identical. The goods "confectionery" in the application are identical to those of the earlier mark. The goods "preparations made from cereals, bread and pastry" and "ices" are all highly similar goods to confectionery. There is a lower level of similarity between the remaining goods. This similarity between the marks together with the identity of the goods will result in a likelihood of confusion.</p>

EUTM file information

PANDA
010398618

Graphic representation



Trade mark information

Name	PANDA	Filing date	08/11/2011
Filing number	010398618	Registration date	20/03/2012
Basis	EUTM	Expiry date	08/11/2021
Date of receipt	08/11/2011	Designation date	
Type	Figurative	Filing language	Finnish
Nature	Individual	Second language	English
Nice classes	30 (Nice Classification)	Application reference	BV207568
Vienna Classification	26.13.25 (Vienna Classification)	Trade mark status	Registered
		Acquired distinctiveness	No

Goods and services

30 Non-medicated confectionary, liquorice and chocolate.

Owners

Orkla Confectionery & Snacks Finland Ab

ID	259364	Country	FI - Finland	Correspondence address	
Organisation	Orkla Confectionery & Snacks Finland Ab	State/county	n/a	Orkla Confectionery & Snacks Finland Ab	Can be accessed and changed by authorised user via the User Area
		Town	GODBY	Sundsvägen 420	
		Post code	22410	FI-22410 GODBY	
Legal status	Legal entity	Address	Sundsvägen 420	FINLANDIA	Can be accessed and changed by authorised user via the User Area
					Can be accessed and changed by authorised user via the User Area

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number

Your trade mark

8285942

Type of mark

Please tick

<input type="checkbox"/>	UK	<input checked="" type="checkbox"/>	EUTM	<input type="checkbox"/>	International
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Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.



Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input type="checkbox"/>	All goods and services
<input checked="" type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Class 30

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?



Yes



No > GO TO Q4

Q3. Has the trade mark been used?



Yes



No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input type="checkbox"/>	All goods and services
<input checked="" type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Chocolate confectionery and liquorice confectionery

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1 or Q3a (whichever is applicable)?

<input checked="checked" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and e.g. why you consider the respective marks or goods and/or services to be similar.

The marks are visually similar as both contain the image of a panda. They are phonetically identical as both would be referred to as 'panda' and conceptually identical both being pandas. The goods "confectionery" in the application are identical to those of the earlier mark. The goods "preparations made from cereals, bread and pastry" and "ices" are all highly similar goods to confectionery. There is a lower level of similarity between the remaining goods. This similarity between the marks together with the identity of the goods will result in a likelihood of confusion.



Protect your intellectual property in the European Union

EUTM file information

(Trade mark without text)
008285942

Graphic representation



Trade mark information

Name	(Trade mark without text)	Filing date	07/05/2009
Filing number	008285942	Registration date	08/03/2010
Basis	EUTM	Expiry date	07/05/2019
Date of receipt	07/05/2009	Designation date	
Type	Figurative	Filing language	Finnish
Nature	Individual	Second language	English

Nice classes	5, 30, 35, 41 (Nice Classification)	Application reference	BV200845
Vienna Classification	03.01.15 (Vienna Classification)	Trade mark status	Registered
		Acquired distinctiveness	No

Goods and services

English (en)



5 Pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

30 Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (condiments); spices; ice.

35 Advertising; business management; business administration; office functions.

41 Education; providing of training; entertainment; sporting and cultural activities.

Owners

Orkla Confectionery & Snacks Finland Ab

ID	259364	Country	FI - Finland	Correspondence address	
Organisation	Orkla Confectionery & Snacks Finland Ab	State/country	n/a	Orkla Confectionery & Snacks Finland Ab	Can be accessed and changed by authorised user via the User Area
		Town	GODBY	Sundsvägen 420	
		Post code	22410	FI-22410 GODBY	
Legal status	Legal entity	Address	Sundsvägen 420	FINLANDIA	Can be accessed and changed by authorised user via the User Area
					Can be accessed and changed by authorised user via the User Area

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number

Your trade mark

8285165

Type of mark

Please tick

<input type="checkbox"/>	UK	<input checked="" type="checkbox"/>	EUTM	<input type="checkbox"/>	International
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Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.



Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input type="checkbox"/>	All goods and services
<input checked="" type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Class 30

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?



Yes



No > GO TO Q4

Q3. Has the trade mark been used?



Yes



No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input type="checkbox"/>	All goods and services
<input checked="" type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Chocolate confectionery and liquorice confectionery

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1 or Q3a (whichever is applicable)?

<input checked="checked" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and e.g. why you consider the respective marks or goods and/or services to be similar.

The marks are visually similar as both contain the image of a panda. They are phonetically identical as both would be referred to as 'panda' and conceptually identical both being pandas. The goods "confectionery" in the application are identical to those of the earlier mark. The goods "preparations made from cereals, bread and pastry" and "ices" are all highly similar goods to confectionery. There is a lower level of similarity between the remaining goods. This similarity between the marks together with the identity of the goods will result in a likelihood of confusion.

EUTM file information

(Trade mark without text)**008285165**

Graphic representation



Trade mark information

Name	(Trade mark without text)	Filing date	07/05/2009
Filing number	008285165	Registration date	10/11/2009
Basis	EUTM	Expiry date	07/05/2019
Date of receipt	07/05/2009	Designation date	
Type	Figurative	Filing language	Finnish
Nature	Individual	Second language	English
Nice classes	5, 30, 35, 41 (Nice Classification)	Application reference	BV200844
Vienna Classification	03.01.15 (Vienna Classification)	Trade mark status	Registered
		Acquired distinctiveness	No

Goods and services

English (en)



5 Pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

30 Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (condiments); spices; ice.

35 Advertising; business management; business administration; office functions.

41 Education; providing of training; entertainment; sporting and cultural activities.

Owners

Orkla Confectionery & Snacks Finland Ab

ID	259364	Country	FI - Finland	Correspondence address	
Organisation	Orkla Confectionery & Snacks Finland Ab	State/country	n/a	Orkla Confectionery & Snacks Finland Ab	Can be accessed and changed by authorised user via the User Area
		Town	GODBY	Sundsvägen 420	
		Post code	22410	FI-22410 GODBY	
Legal status	Legal entity	Address	Sundsvägen 420	FINLANDIA	Can be accessed and changed by authorised user via the User Area
					Can be accessed and changed by authorised user via the User Area

SECTION C: Opposition is based on Section 5(4)(a) of the Trade Marks Act, where the use of the applicant's trade mark would be contrary to law, in particular, the law of passing off.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER UNREGISTERED TRADE MARK

Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

PANDA

Q1. When and where was the earlier right first used in the UK?

Date used:

Enter date of first use

1982

Where used:

Enter name of city/region or specify
'throughout UK' if used nationally

Throughout the UK

Q2. On which goods or services has the earlier right been used for?

Liquorice confectionery and chocolate confectionery.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q3. For which goods or services (of the application that you are opposing) do you consider that use of the applicant's mark would amount to passing off?

✓	All goods and services
	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q4. Why would use of the applicant's trade mark be contrary to law, particularly the law of passing off?

The Opponent has been using its sign in the UK since at least 1982 in relation to liquorice and chocolate confectionery. Consequently it has a goodwill in its sign. Use of a sign mark depicting the same animal (panda) for foodstuffs will undoubtedly result in a misrepresentation that the Applicant's goods are connected to the Opponent. This is due to the fact that pandas are distinctive in relation to the products in question. The misrepresentation will lead to damage by way of lost sales and potential damage to reputation.

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ABOUT THE EARLIER UNREGISTERED TRADE MARK

Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.



Q1. When and where was the earlier right first used in the UK?

Date used:

Enter date of first use

1993

Where used:

Enter name of city/region or specify
'throughout UK' if used nationally

Throughout the UK

Q2. On which goods or services has the earlier right been used for?

Liquorice confectionery and chocolate confectionery

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q3. For which goods or services (of the application that you are opposing) do you consider that use of the applicant's mark would amount to passing off?

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