



**OIFIG NA bPAITINNÍ  
PATENTS OFFICE**

Oifigí an Rialtais  
Bóthar Hebron  
Cill Chainnigh  
Éire

Government Buildings  
Hebron Road  
Kilkenny  
Ireland

**WORLD INTELLECTUAL PROPERTY ORGANISATION  
34, CHEMIN DES COLOMBETTES  
PO BOX 18  
1211 GENEVA 20  
SWITZERLAND**

Date of Notification: 25 April 2017  
(By registered Mail)

**International Registration No: 1336550  
Mark: boost my brain  
Holder: Axanova AG of Switzerland**

**Notification of the Irish Patents Office of Total Provisional Refusal**

Dear Sir/Madam,

This notification is issued pursuant to Article 5 of the Protocol relating to the Madrid Agreement concerning the International Registration of Marks and Rule 17(2) of the Common Regulations under the Agreement and Protocol, and is to inform you that protection for this mark is refused for the reasons set out below. Any references to Sections are to Sections of the Trade Marks Act, 1996 and to Rules are to Rules of the Trade Marks Rules, 1996.

1.

**Section 10(2)**

There exists a likelihood of confusion on the part of the public between the mark and the following earlier mark(s):

Registered European Union Trade Mark No:008941981

Mark:BOOST YOUR BRAIN

Proprietor:OCTAIN GmbH

Wipplingerstr. 35

1010 Wien

Austria

Date of Application:10/03/2010

Date of Registration:26/10/2010

Class 5 : Dietetic beverages, dietetic foodstuffs and food supplements for medical purposes.

Class 30 : Cereal snacks; muesli; preparations made from cereals;bakery goods and pastries, in particular bread, biscuits, cakes, cookies, buns; desserts, consisting essentially of pasta; Flour based prepared meals; Confectionery; farinaceous foods; sandwiches; ices cream; Beverages (tea-based -); coffee and cocoa beverages; cocoa products; chewing gum, not for medical purposes.

Class 35 : Advertising;presentation of goods and services for advertising and sales purposes; sales promotion; sponsoring in the form of advertising.

2. This refusal is in respect of all of the goods for which protection is sought.
3. The holder may make representations in writing, or may request an extension of time for doing so, not later than **24 July 2017**. A request for an extension of time received after that date may be granted at the discretion of the Controller.
4. If representations or a request for an extension of time are not received by the specified date, protection of the mark will be refused.
5. Representations to the Controller or a request for a hearing in relation to this notification of refusal must be accompanied by an address for service within the European Economic Area as required by Rule 10(1)(a) as amended by Statutory Instrument No. 410 of 2010; failure to furnish such address will result in the holder being deemed to have abandoned his request for protection.
6. If, following the receipt of representations, it is considered that the requirements for protection are met, the mark will be published in the Official Journal and protection of it will be subject to opposition and observations by third parties. A refusal based on opposition or observations received may subsequently be issued.
7. Date of refusal: **25 April 2017**

Yours faithfully

*Paula Murphy*

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**Paula Murphy**  
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