

**Notification of *ex officio* provisional partial refusal of protection (Article 5 of the Madrid Protocol, Rule 17(1) and (2) of the Common Regulations under the Madrid Agreement and Protocol, and Rule 113 EUTMR)**

Alicante, 12/09/2017

*International registration number:* **1358414**  
*Name of the holder:* **Moose Creative Pty Ltd**  
*Trade mark:* **CHEF CLUB**

Protection of the abovementioned mark is provisionally refused for the European Union for part of the goods and services (list here under).

**I. Grounds**

The Office has examined your application for a European Union trade mark, to ensure that it complies with the legal requirements for registration as established in Article 7 EUTMR.

The application consists of the verbal mark "CHEF CLUB".

The sign you have applied for is partially ineligible for registration under Article 7(1) (b) and (c) and Article 7(2) EUTMR, because it describes certain characteristics of the goods and services for which protection is sought, and it is also devoid of any distinctive character.

**Descriptiveness**

The goods and services to which this objection applies are:

41 *Entertainment and educational services; providing of training; sporting and cultural activities; production or distribution of television programs, video recordings, motion picture films and videotape films, webisodes and online videos not downloadable, and sound recordings; provision of online computer games via interactive websites; publication of books, magazines and journals; publication of electronic books, magazines and journals online; publication of multimedia material online; providing online electronic publications not downloadable; live entertainment; musical entertainment services; organisation and conducting of dance, music and other entertainment festivals; organisation of competitions; organisation of entertainment events.*

The assessment of descriptiveness is based on how the relevant consumer would perceive the sign in relation to the services for which protection is sought.

Regarding the services to which an objection has been raised, the Office considers that they belong to both a highly specialised market sector, in the present case a

professional in the culinary field and the average English, Danish, Spanish and French-speaking consumer, who would understand the sign as having the following meaning: an organization of people with a common purpose or interest in professional cooking, who meet regularly and take part in shared activities.

Therefore, the relevant consumers would perceive the sign as providing information about the kind of people and organization rendering of the service in question.

### **Lack of distinctiveness**

Given that the sign has a clear descriptive meaning, it is also devoid of any distinctive character and therefore objectionable under Article 7(1)(b) EUTMR, as it is incapable of performing the essential function of a trade mark, which is to distinguish the goods or services of one undertaking from those of its competitors.

Consequently, taken as a whole, the sign for which protection is sought is descriptive and devoid of any distinctive character, and is not capable of distinguishing the g/s to which an objection has been raised within the meaning of Article 7(1)(b) and (c) and Article 7(2) EUTMR.

If you have any observations, they should be submitted within two months from the notification of this communication. If you do not submit any observations, the application will be rejected in part, namely for:

41 *Entertainment and educational services; providing of training; sporting and cultural activities; production or distribution of television programs, video recordings, motion picture films and videotape films, webisodes and online videos not downloadable, and sound recordings; provision of online computer games via interactive websites; publication of books, magazines and journals; publication of electronic books, magazines and journals online; publication of multimedia material online; providing online electronic publications not downloadable; live entertainment; musical entertainment services; organisation and conducting of dance, music and other entertainment festivals; organisation of competitions; organisation of entertainment events.*

The application will proceed accordingly for the remaining goods:

9 *Computer games programs; computer games programs software downloaded via the internet; computer games programs software recorded on tapes; computer programs for computer games; computer programs for playing games; computer programs for video games; games software.*

16 *Adhesive for paper for household purposes; art paper; craft paper; drawing paper; paper; paper crafts materials; cardboard; erasers; printed matter; printing blocks; children's paint-boxes; materials for drawing; drawing materials; artists' materials; modelling materials; writing materials; adhesive stickers; gums being adhesives for stationery or household purposes; pastes for stationery or household purposes; stickers being decalcomanias; stickers being stationery; coloured liquids for use in childrens' crafts; craft kits for painting/posters; craft kits for papier mache model construction; art materials being paint boxes for use in schools; adhesive backed films being stationery for use as decorative trim; adhesive backed films for stationery purposes; stationery; stationery for children's educational activities; stationery for children's playing activities; printed stickers; modelling clay; moulds for modelling clays being artists' materials; printed patterns; printed patterns for*

*costumes; boxes of paints for use by children; children's painting sets; booklets relating to games; printed matter for use with board games; trading cards other than for games; toy modelling dough.*

- 28 *Craft kits for games and playthings, namely, toy model hobby craft kits for construction toy model buildings, vehicles, action figures and pretend food; craft toys sold complete; craft toys sold in kit form; action figures being toys or playthings; action toys; children's toys; figurines being toys; kits of parts sold complete for constructing miniature toys; kits of parts sold complete for constructing toys; kits of parts sold complete for the assembly of toys; kits of parts sold complete for the construction of toys; model toys or playthings; toys; toys being for sale in kit form; toys sold in kit form; kits of parts sold complete for constructing toy models; kits of parts sold complete for making toy model cars; kits of parts sold complete for making toy models; toy model kits; toy models; card games; games; games adapted for use with an external display screen or monitor; games adapted for use with dot matrix liquid crystal displays; tactile educational games being playthings; trading cards being card games; educational playthings; electronic playthings; playthings; model toys; toys adapted for educational purposes; construction toys; plush toys; toy dolls; toy figures; toy furniture; toy playsets; board games; games for children; hand held computer games; hand held electronic games; miniatures for use in games; models for use with hobby games; dolls; dolls' furniture; dolls' houses; furniture for dolls' houses.*

## **II. Representation**

The holder of the international registration is obliged to be represented before the EUIPO by a legal practitioner or professional representative that is entitled to represent third parties before the EUIPO (Articles 92(2) and 93(1) EUTMR). Protection of the international registration for the European Union will be refused in part if a representative is not appointed within the time limit indicated under II.

## **III. Time limit**

The holder of the international registration is hereby given a time limit of two months to overcome the ground for refusing protection indicated. Failure to do so will mean that after expiry of the time limit, the EUIPO will render a decision in which it refuses the protection in whole or in part. Said decision may be appealed. The time limit of two months to reply to the present refusal will start on the day the present notification was issued by the EUIPO (Article 154(2), (3) and (4) EUTMR). Any such reply of the holder of the international registration shall be addressed to the EUIPO only.

**Vinciane VAN DER MAESEN**