

MADRID AGREEMENT AND PROTOCOL

COMPLETION OF EX OFFICIO EXAMINATION

- INTERIM STATUS OF A MARK -

Rule 18bis(1)(a) and (b)

I.	Office sending the statement: Hungarian Intellectual Property Office 1438 Budapest, Pf.415 Fax. :(361) 474 - 5534
II.	Number of the International registration: 130 2999 Date of extension of the mark to Hungary: 2017.08.03
III.	Name of the holder (or other information enabling the identity of the international registration to be confirmed): LIMITED LIABILITY COMPANY ~ANYKISS~
IV.	The ex officio search for significant prior rights had been carried out according to Article 60 of the Act XI of 1997 on the protection of trade marks and geographical indications and no significant prior rights had been revealed ☒ the following prior rights included in the enclosed search report were found. The ex officio examination in respect of this international registration has been completed and ☒ no refusal based on absolute grounds for refusal has been communicated [Rule 18bis(1)(a)]. a notification of provisional refusal has been communicated by the Office [Rule 18bis(1)(b)].
V.	The Office states that the protection of the international registration is still subject to opposition or observations by third parties [Rule 18bis(1)(a)] or [Rule 18bis(1)(b)]. The opposition period will start on 2017.12.28 and will expire on 2018.03.28 The protection of the international registration is still subject to observations before 2018.03.28
Signature or official seal of the Office sending the statement:	



VI.

 
dr. Gabriella Kiss

Head of the International Trademark Section

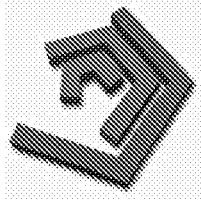
VII.

Examiner: Szabó Katalin

Number of decision: A1302999/4

Date: 2018.01.03





Search report
Hungarian Intellectual Property Office

HU

(210)	Application number			
(111)	Registration number			
(220)	Filing date			
(320)	Date of priority		HU	Hungarian National Trade Mark
(151)	Date of registration		WO	International Trade Mark
(511)	Nice classes		EM	Community Trade Mark
(540)	Reproduction of the mark		IR	International Trade Mark designating the EU
(550)	Type of mark: W - Word, F - Figurative, C - Combined			
(731)	Name and address of the applicant			

540	KISS Chocolaterie			
210	A1302999	220	2017-08-03	
320		550	F	
511	30			

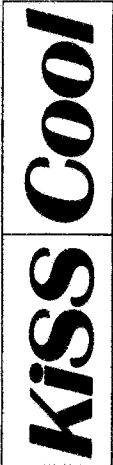
Number of results: 10

540	CHO~KISS					WO	
210	A1066404	220	2011-01-05	320	2011-01-05	550	W
111	1066404	151		511	30		
731	August Storck KG D-13403 Berlin (DE) Waldstrasse 27						

540						WO	
210	A565679	220	1991-01-12	320	1991-01-12	550	F
111	565679	151		511	5, 30		
731	Sulá GmbH D-48629 Metelen (DE) Industriestrasse 23						



540						WO	
210	A622540	220	1994-08-01	320	1994-08-01	550	F
111	622540	151		511	30		
731	Kraft Foods France Intellectual Property S.A.S. F-92140 CLAMART (FR) 6 Av. Réaumur						



540					WO	
210	A996280	220	2009-01-27	320	2009-01-27	F
111	996280	151		511	30	
731	August Storck KG D-13403 Berlin (DE) Waldstrasse 27					

540	KISSING CHOCOLATE				EM	
210	000349118	220	1996-09-11	320		W
111		151	1999-04-26	511	30	
731	The Hershey Company, 17033 Hershey, (US) 100 Crystal A Drive					

540	KISS				EM	
210	001311950	220	1999-09-08	320		W
111		151	2000-11-08	511	1, 5, 30	
731	Redge Chemicals Limited, CW10 9JN Cheshire (GB) 20 Bostock Hall, Bostock Road, Middlewich					

540	K.I.S.S.					EM	
210	008198814	220	2009-04-03	320	2009-04-03	550	W
111		151	2009-11-22	511	5, 29		
731	Regenovate Endogen Inc., N2J 3Z1 Waterloo, (CA) 316 Marsland Drive						

540	Sula`s Kiss						EM	
210	008492365	220	2009-07-24	320			550	C
111		151	2010-01-21	511		5, 30		
731	Sulá GmbH, 48629 Metelen (DE) Industriestr. 23							

540	BIG KISS						EM	
210	009177486	220	2010-06-15	320			550	C
111		151	2011-08-03	511	29-30, 35			
731	Batook Chewing Gum Ind. Ltd., 31952 Al Khobar (SA) P.O.Box 25							

540	KISS KISS						EM	
210	014253298		220	2015-06-15	320		550	W
III			151		511	30		
731	Oy Karl Fazer Ab, 01230 Vantaa (FI) Fazerintie 6							

-Act XI of 1997 on the Protection of Trademarks and Geographical Indications (extract)

Article 1(1) Trademark protection shall be granted for any signs capable of being represented graphically provided that these are capable of distinguishing goods or services from those of other undertakings.

(2) Signs which may be granted trademark protection are in particular:

- (a) words, combination of words, including personal names and slogans,
- (b) letters, numerals,
- (c) figures, pictures,
- (d) two- or three-dimensional forms, including the shape of goods or of their packaging,
- (e) colors, combination of colors, light signals, holograms,
- (f) sound signals, and
- (g) combination of signs under (a) to (f).

Article 2 (1) A sign may not be granted trademark protection if it does not meet the requirements of Article 1.

(2) A sign shall be excluded from trademark protection if:

(a) it is devoid of any distinctive character, in particular if it consists exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service, or other characteristics of the goods or services, or which have become customary in the current language or in the practices of trade;

(b) it consists exclusively of a shape which results from the nature of the goods themselves or which is necessary to obtain a technical result or which gives substantial value to the goods.

(3) A sign shall not be excluded from trademark protection in accordance with paragraph (2)(a) if, either before or after the date of priority, it has acquired a distinctive character.

Article 3 (1) A sign may not be granted trademark protection if:

- (a) it is contrary to public policy or to accepted principles of morality;
- (b) it is liable to deceive consumers as to the nature, quality, geographical origin or other characteristics of the goods or services;
- (c) its registration was applied for in bad faith.

(2) A sign shall be excluded from trademark protection if:

(a) it consists exclusively of State emblems or other emblems of an authority or international organization as defined in the Paris Convention for the Protection of Industrial Property;

(b) it relates to medals, badges, armorial bearings, not covered by subparagraph (a) above, or to official signs and hallmarks indicating control and warranty which are of public interest;

(c) it consists of symbols having a close relation to religious or other beliefs.

(3) Trademark protection shall be granted with the consent of the competent authority to signs of which the emblems defined under paragraph 2 (a) and (b) form only an element.

(4) A sign may not be granted trademark protection if it consists of or contains a geographical indication registered pursuant to this Act or to European Community law. This provision shall apply to goods which do not originate in a geographical area corresponding to the geographical indication or in connection with which the geographical indication cannot be used for any other reason on the basis of the provisions of this Act or of European Community law.

Article 4 (1) A sign may not be granted trademark protection:

(a) with respect to identical goods or services, if the sign with the later date of priority is identical with an earlier trademark;

(b) if because of its identity with or similarity to the earlier trademark and the identity or similarity of the goods or services there exists a likelihood of confusion on the part of the consumers;

(c) with respect to dissimilar goods or services if the sign with the later date of priority is identical with or similar to an earlier trademark having a reputation in the country where the use without due cause of the later sign would take unfair advantage of or be detrimental to the distinctive character or the repute of the earlier trademark.

(2) "Earlier trademark" means a trademark whose registration was applied for with an earlier date of priority or – for the purposes of paragraph (1)(a) and (b) – a sign which has become well-known at an earlier date in the country under the Paris Convention for the Protection of Industrial Property even if that sign is not registered. "Earlier trademark" shall also mean – depending on the registration of the sign – an earlier trademark application.

(3) A sign may not be refused trademark protection if it conflicts with an earlier trademark, which has not been used by the holder in accordance with the provisions of Article 18.

(4) For the purposes of this Act, the likelihood of confusion includes the likelihood of association with the earlier trademark.

Article (5) A sign may not be granted trademark protection:

(a) if it would infringe earlier personal rights of others, in particular a right in a name or of personal portrayal;

(b) if it would conflict with an earlier copyright or industrial property right of others, including conflict with the name of a protected plant variety.

(2) A sign shall not be granted trademark protection

(a) if it has been used effectively in the country without registration where the use of the sign without the consent of the prior user would be contrary to law; and

(b) if, with respect to identical or similar goods or services, it is identical with or similar to a trademark whose protection has lapsed by reason of expiration and less than two years have elapsed since the lapse, unless the earlier trademark had not been used in conformity with the provisions of Article 18.

(3) In determining whether a right, use or expiration is deemed as earlier within the meaning of paragraphs (1) and (2), the priority of the application for registration shall be taken into account.

Article (6) A sign shall be excluded from trademark protection if the representative or agent applies for registration in his own name without the holder's authorization, unless the representative or agent justifies his action.

Article 7(1) A sign may not be refused trademark protection in accordance with Articles 4 and 5 if the holder of the earlier right consents to the registration of the later sign.

(2) A declaration of consent shall be valid if drawn up as a public instrument or a private document providing sufficient evidence.

(3) A declaration of consent may be contested under those provisions of the Civil Code that concern actions for avoidance of a contract by reason of mistake, deception or threat; the declaration may not be withdrawn and may not be replaced by the decision of a Court.

Article 8(1) Trademark protection shall be granted for a sign if

(a) it satisfies the requirements of Article 1 and is not excluded from trademark protection under the terms of Articles 2 to 7 and

(b) the relevant application complies with the requirements laid down by this Act.