



**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: 04 July 2018
(By registered Mail)

International Registration No: 1394150

Mark: Caviarus

**Holder: OBSHESTVO S OGRANICHENNOY OTVETSTVENNOSTYU
"EVROPROM" of Russian Federation**

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:010085959

Mark:CAVIAROLI

Proprietor:Ramon Ramon Real

Plaza Santa Eulalia, 5

08292 Esparraguera

Spain

Date of Application:29/06/2011

Date of Registration:02/12/2011

Priority Date: 01/03/2011

Class 29 : Meat, fish, poultry and game; Meat extracts; Preserved, frozen, dried and cooked fruits and vegetables; Jellies, jams, compotes; Eggs, milk and milk products; Edible oils and fats.

Class 35 : Advertising; Business management; Business administration; Office functions;Wholesaling, retailing and selling via the Internet of foodstuffs.

Registered European Union Trade Mark No:010230126

Mark:CAVIAR

Proprietor:Caviar Group, SA

75 Avenue du Port

1000 Bruxelles

Belgium

Date of Application:31/08/2011

Date of Registration:02/02/2012

Priority Date: 02/03/2011

Class 35 : Advertising; Business management; Business administration; Direct mail advertising (tracts, prospectuses, printed matter, samples); Arranging newspaper subscriptions (for others); Business management and organisation consultancy; Computerized file management; Organisation of exhibitions for commercial or advertising purposes; On-line advertising on a computer network; Rental of advertising time on all means of communication; Publication of publicity texts; Rental of advertising space; Dissemination of advertisements; Public relations;Information and advice on business matters and marketing, in particular direct marketing and marketing by electronic means;Marketing, advertising and assistance in the field of business management in support of the commercialisation of goods and services within the framework of e-commerce.

Class 41 : Education; Providing of training; Entertainment; Sporting and cultural activities; Education or entertainment information; Leisure facilities; Publication of books; Video-tape film production; Motion picture rental; Rental of sound recordings; Rental of video tape recorders/players or radio and television sets; Rental of show scenery; Video tape editing; Photography services; Arranging of competitions (education or entertainment); Organization and holding of exhibitions for cultural or educational purposes; Micro publishing;Production, composition, direction, editing and presentation of radio and television advertisements, programmes and films.

Registered European Union Trade Mark No:010847077

Mark:caviarland

Proprietor:SARL CHAUVIN

477, rue de l'Eglise

78910 CIVRY-LA-FORET

France

Date of Application:06/06/2012

Date of Registration:10/10/2012

Class 29 : Fine caviar preserves.

Registered European Union Trade Mark No:014967781

Mark:CAVIAR

Proprietor:Square, Inc.

1455 Market Street, Suite 600

San Francisco 94103

United States of America

Date of Application:30/12/2015

Date of Registration:06/05/2016

Priority Date: 02/07/2015

Class 9 : Downloadable software for restaurant and food ordering and delivery services; downloadable software for use in facilitating the advertising and marketing of restaurants and food delivery services to consumers, for reviewing information concerning restaurants, food, and dining options, for searching restaurants and dining options, for accessing restaurant and dining menus, for placing restaurant and food orders, and for monitoring and tracking the status or location of orders, and for providing users with the ability to provide feedback on the food and food delivery services; downloadable software for managing courier and delivery networks; all of the foregoing excluding caviars.

Class 35 : Electronic processing of restaurant and food orders for others; online business directories featuring restaurants and other establishments offering food; advertising services via the Internet, namely, promoting the goods and services of others; online advertising and marketing services for restaurants, namely, Internet and mobile marketing that promotes the goods and services of others; providing consumer information in the field of restaurants and food; providing curated information about merchants, restaurants and food; promoting and marketing the goods and services of others by distributing advertising material, coupons, coupons and promo codes, and special offers; all of the foregoing excluding caviars; providing a website featuring an online ordering service in the field of restaurant take-out and delivery, excluding caviars.

Class 39 : Providing a website featuring information regarding delivery services and bookings for delivery services; packaging and storage of goods; transport and delivery of goods; express delivery of goods by vehicles; providing information concerning collection and delivery of assets in transit; delivery services; temporary storage of deliveries; all of the foregoing excluding caviars; food delivery, excluding caviars.

Registered European Union Trade Mark No:016577901

Mark:SO CAVIAR

Proprietor:PETROSSIAN S.A.

18, boulevard de Latour-Maubourg

75007 Paris

France

Date of Application:10/04/2017

Date of Registration:11/08/2017

Class 29 : Caviar; Culinary preparations based on caviar.

Class 35 : Wholesaling and semi-wholesaling of caviar; Business appraisals

and expert opinions relating to caviar; Commercial information and consultancy, for others, in relation to caviar; Administrative and business management of aquaculture and fish farms; Arranging and conducting of commercial and promotional events in the field of caviar.

Class 41 : Arranging and conducting of workshops (training) in connection with the production and selection of caviar; Arranging and conducting of events in relation to caviar tasting for educational and entertainment purposes.

Class 44 : Aquaculture; Fish farming; Rearing of sturgeon.

2. This refusal is in respect of all of the goods/services 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 **3 October 2018**. 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: **04 July 2018**

Yours faithfully

Elsie Buggy

Elsie Buggy
Trade Mark and Design Examination Division
Direct Line: (056) 7720140
Ext: 4140
tmexam@patentsoffice.ie