

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 79238837

MARK:

**\*79238837\***

CORRESPONDENT ADDRESS:

Margarita Mironova  
Margarita Mironova  
P.O. box 98  
RU-198332 Saint-Petersburg  
RUSSIAN FED.,

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[http://www.uspto.gov/trademarks/teas/response\\_form.jsp](http://www.uspto.gov/trademarks/teas/response_form.jsp)

APPLICANT: Closed Joint-Stock Company; «Baltic Coas ETC.

CORRESPONDENT'S REFERENCE/DOCKET NO:

N/A

CORRESPONDENT E-MAIL ADDRESS:

## OFFICE ACTION

INTERNATIONAL REGISTRATION NO. 1418176

**STRICT DEADLINE TO RESPOND TO THIS NOTIFICATION:** TO AVOID ABANDONMENT OF THE REQUEST FOR EXTENSION OF PROTECTION OF THE INTERNATIONAL REGISTRATION, THE USPTO MUST RECEIVE A COMPLETE RESPONSE TO THIS PROVISIONAL FULL REFUSAL NOTIFICATION **WITHIN 6 MONTHS** OF THE "DATE ON WHICH THE NOTIFICATION WAS SENT TO WIPO (MAILING DATE)" LOCATED ON THE WIPO COVER LETTER ACCOMPANYING THIS NOTIFICATION.

In addition to the Mailing Date appearing on the WIPO cover letter, a holder (hereafter "applicant") may confirm this Mailing Date using the USPTO's Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. To do so, enter the U.S. application serial number for this application and then select "Documents." The Mailing Date used to calculate the response deadline for this provisional full refusal is the "Create/Mail Date" of the "1B-1st Refusal Note."

This is a **PROVISIONAL FULL REFUSAL** of the request for extension of protection of the mark in the above-referenced U.S. application. See 15 U.S.C. § 1141h(c). See below in this notification (hereafter "Office action") for details regarding the provisional full refusal.

### SEARCH OF OFFICE'S DATABASE OF MARKS

The trademark examining attorney has searched the USPTO's database of registered and pending marks for the foreign wording and/or foreign characters in the applied-for mark and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; see 15 U.S.C. §1052(d). However, when applicant provides a translation and/or transliteration statement, an additional search may be conducted for the English meaning of the non-English wording and/or transliterated term provided by applicant. See TMEP §§704.02, 809, 1207.01(b)(vi).

### REQUIREMENTS

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

#### SUMMARY OF ISSUES:

- ENTITY & COUNTRY
- DRAWING
- DISCLAIMER
- DESCRIPTION
- TRANSLATION
- IDENTIFICATION

#### ENTITY & COUNTRY

Applicant must specify its form of business or type of legal entity and its national citizenship or foreign country of organization or incorporation. See 37 C.F.R. §§2.32(a)(3)(i)-(ii), 7.25(a)-(b); TMEP §§803.03, 803.04, 1904.02(a). This information is required in all U.S. trademark applications, including those filed under Trademark Act Section 66(a) (also known as "requests for extension of protection of international registrations to the United States"). See 37 C.F.R. §§2.32(a)(3)(i)-(ii), 7.25(a)-(b); TMEP §§803.03, 803.04, 1904.02(a).

If accurate, ENTITY: CLOSED JOINT-STOCK COMPANY and CITIZENSHIP: RUSSIAN FEDERATION would be acceptable.

## DRAWING

Applicant must submit a new drawing showing the <sup>TM</sup> symbol deleted from the mark. This matter is not part of the mark and is not registrable. See TMEP §807.14(a).

## DISCLAIMER

1. The application includes a disclaimer of the <sup>TM</sup> symbol in the applied-for mark. As previously stated, this matter is not part of the mark and is not registrable. See TMEP §807.14(a).

Therefore, applicant must withdraw this disclaimer from the application.

2. Applicant must disclaim the Cyrillic wording that transliterates to “BALTIYSKIY” because it is primarily geographically descriptive of the origin of applicant’s goods and/or services, and thus is an unregistrable component of the mark. See 15 U.S.C. §§1052(e)(2), 1056(a); *In re Societe Generale des Eaux Minerales de Vittel S.A.*, 824 F.2d 957, 959, 3 USPQ2d 1450, 1451-52 (Fed. Cir. 1987); *In re Joint-Stock Co. “Baik”*, 80 USPQ2d 1305, 1309 (TTAB 2006); TMEP §§1210.01(a), 1210.06(a), 1213.03(a).

The attached evidence that the BALITC is a generally known geographic place or location. See TMEP §§1210.02 *et seq.* The goods and/or services for which applicant seeks registration originate in this geographic place or location as shown by applicant’s address. See TMEP §1210.03. Purchasers are therefore presumed to believe the goods originate in this geographic place or location. See TMEP §§1210.04 *et seq.*

An applicant may not claim exclusive rights to terms that others may need to use to describe their goods and/or services, including the geographic origin thereof, in the marketplace. See *Dena Corp. v. Belvedere Int’l, Inc.*, 950 F.2d 1555, 1560, 21 USPQ2d 1047, 1051 (Fed. Cir. 1991); *In re Aug. Storck KG*, 218 USPQ 823, 825 (TTAB 1983). A disclaimer of unregistrable matter does not affect the appearance of the mark; that is, a disclaimer does not physically remove the disclaimed matter from the mark. See *Schwarzkopf v. John H. Breck, Inc.*, 340 F.2d 978, 978, 144 USPQ 433, 433 (C.C.P.A. 1965); TMEP §1213.

If applicant does not provide the required disclaimer, the USPTO may refuse to register the entire mark. See *In re Stereotaxis Inc.*, 429 F.3d 1039, 1040-41, 77 USPQ2d 1087, 1088-89 (Fed. Cir. 2005); TMEP §1213.01(b).

Non-English wording that is merely descriptive, deceptively misdescriptive, geographically descriptive, generic, or informational in connection with the identified goods and/or services, is an unregistrable component of the mark that is subject to disclaimer. TMEP §§1213.03(a), 1213.08(d); see *Bausch & Lomb Optical Co. v. Overseas Fin. & Trading Co.*, 112 USPQ 6, 8 (Comm’r Pats. 1956). The disclaimer must refer to the non-Latin characters and the transliteration in Latin characters (“the non-Latin characters that transliterate to ‘<specify>’”). TMEP §1213.08(d).

Applicant should submit a disclaimer in the following standardized format:

**No claim is made to the exclusive right to use the Cyrillic wording that transliterates to “BALTIYSKIY” apart from the mark as shown.**

For an overview of disclaimers and instructions on how to satisfy this disclaimer requirement online using the Trademark Electronic Application System (TEAS) form, please go to <http://www.uspto.gov/trademarks/law/disclaimer.jsp>.

## DESCRIPTION

The applied-for mark is not in standard characters and applicant did not provide a description of the mark with the initial application. Applications for marks not in standard characters must include an accurate and concise description of the entire mark that identifies literal elements as well as any design elements. See 37 C.F.R. §2.37; TMEP §§808.01, 808.02, 808.03(b).

Therefore, applicant must provide a description of the applied-for mark. The following is suggested:

**The mark consists of a blue square with curved sides and rounded corners on the upper left and lower right and pointed corners on the upper right and lower left. The lower right corner is light blue. Inside are a white stylized gull in flight above white Cyrillic wording.**

## TRANSLATION

Applicant must submit a statement transliterating any non-Latin characters in the mark, with either a translation of the corresponding non-English wording or a statement that the transliterated term has no meaning in a foreign language. See 37 C.F.R. §§2.32(a)(10), 2.61(b); TMEP §809. A transliteration is the phonetic spelling, in Latin characters, of the terms in the mark that are in non-Latin characters.

If the transliterated wording has an English translation, applicant should submit the following translation and transliteration statement, if accurate:

**The non-Latin characters in the mark transliterate to “BALTIYSKIY BEREG” and this means “BALTIC COAST” in English.**

TMEP §809.03.

## IDENTIFICATION

The identification of goods contains wording that must be clarified. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01.

Specifically, the following entries require revision:

Class 29

“ajvar [preserved peppers]” contains brackets.

“anchovy” is overbroad.

“fatty substances for the manufacture of edible fats” is unclear. The examining attorney is unable to suggest a suitable alternative.

“gelatin” is overbroad.

“kephir [milk beverage]” contains brackets.

“kinchi [fermented vegetable dish]” contains brackets.

“black pudding [blood sausage]” contains brackets.

“croquettes” is indefinite.

“kunys [kunyss] [milk beverage]” contains brackets.

“salmon” is overbroad.

“soya milk [milk substitute]” contains brackets.

“milk products” is overbroad.

“foods made from fish” is overbroad.

“prostokvasha [soured milk]” contains brackets.

“cranberry sauce [compote]” is overbroad and contains brackets.

“ryazhenka [fermented baked milk]” contains brackets.

“cream [dairy products]” contains brackets.

“fat-containing mixtures for bread slices” is unclear.

“smetana [sour cream]” contains brackets.

“sausages in batter” is overbroad.

“tuna fish” is overbroad.

“dates” is overbroad.

Class 31

“algae for human or animal consumption” is overbroad.

“grains [cereals]” is overbroad and contains brackets.

“fish spawn” is overbroad.

“roots for food” is overbroad.

“maize” is overbroad.

“vine plants” is overbroad.

“onions, fresh vegetables” is unclear.

“nuts [fruits]” is overbroad and contains brackets.

“wheat” is overbroad.

“plants” is overbroad.

“rye” is overbroad.

“grains [seeds]” is overbroad and contains brackets.

“berries, fresh fruits” is unclear.

Applicant may substitute the following wording, if accurate:

#### Class 29

Ajvar, **namely**, preserved peppers; alginates for culinary purposes; anchovy, **not live**; peanuts, prepared; albumen for culinary purposes; white of eggs; beans, preserved; bouillon; ginger jam; ham; ~~fatty substances for the manufacture of edible fats~~; toasted liver; peas, preserved; mushrooms, preserved; game, not live; **unflavored and unsweetened** gelatin; meat jellies; jellies for food; fruit jellies; yolk of eggs; bone oil, edible; lard; suet for food; edible fats; fruit-based snack food; charcuterie; raisins; caviar; fish roe, prepared; yogurt; sauerkraut; kephir, **namely**, milk beverage; kimchi, **namely**, fermented vegetable dish; isinglass for food; clams, not live; milk shakes; black pudding, **namely**, blood sausage; compotes; meat, tinned; vegetables, tinned; fish, tinned; fruits, tinned; bouillon concentrates; gherkins; shrimps, not live; prawns, not live; buttercream; **fish** croquettes; kumys, kumyss, **milk-based** beverages; spiny lobsters, not live; salmon, **not live**; onions, preserved; margarine; marmalade; edible oils; shellfish, not live; almonds, ground; animal marrow for food; mussels, not live; milk; condensed milk; soya milk, **namely**, milk substitute; fish meal for human consumption; vegetable mousses; fish mousses; fruit pulp; meat; meat, preserved; milk beverages, milk predominating; vegetables, preserved; vegetables, dried; vegetables, cooked; potato fritters; olives, preserved; lobsters, not live; nuts, prepared; tomato paste; liver pastes; pectin for culinary purposes; liver; pickles; jams; powdered eggs; milk products **excluding ice cream, ice milk and frozen yogurt; frozen, prepared and packaged meals consisting primarily of fish**; prostokvasha, **namely**, soured milk; poultry, not live; pollen prepared as foodstuff; cranberry **compote**; apple purée; crayfish, not live; crustaceans, not live; fish, preserved; fish, not live; salted fish; ryazhenka, **namely**, fermented baked milk; vegetable salads; fruit salads; bacon; sardines; pork; herrings; seeds, prepared; sunflower seeds, prepared; cream ~~[dairy products]~~; whipped cream; **fat based spreads**; smetana, **namely**, sour cream; vegetable juices for cooking; salted meats; sausages; **battered and fried sausages**; preparations for making bouillon; preparations for making soup; tripe; soups; cheeses; tofu; sea-cucumbers, not live; truffles, preserved; tuna fish, **not live**; oysters, not live; milk ferments for culinary purposes; rennet; fish fillets; **processed** dates; crystallized fruits; frozen fruits; fruit, preserved; fruit, stewed; potato flakes; fruit peel; preserved garlic; lentils, preserved; potato chips; fruit chips; non-alcoholic eggnog; seaweed extracts for food; meat extracts; eggs

#### Class 31

Oranges, fresh; peanuts, fresh; beans, fresh; grapes, fresh; **unprocessed** algae for human or animal consumption; peas, fresh; mushrooms, fresh; cereal seeds, unprocessed; **unprocessed** grains **and** cereals; fish spawn **for agriculture**; potatoes, fresh; roots for **animal** food; maize **for animal feed**; spiny lobsters, live; lemons, fresh; **live** vine plants; onions, **namely**, fresh vegetables; olives, fresh; shellfish, live; mussels, live; fish meal for animal consumption; oats; vegetables, fresh; lobsters, live; **unprocessed** nuts **and** fruits; citrus fruit, fresh; poultry, live; **unprocessed** wheat; crayfish, live; crustaceans, live; **live** plants; rhubarb, fresh; rice, unprocessed; **unprocessed** rye; fish, live; beet, fresh; **unprocessed** grains **and** **unprocessed edible** seeds; garden herbs, fresh; truffles, fresh; oysters, live; fruit, fresh; hazelnuts; flowers, natural; spinach, fresh; berries, **namely**, fresh fruits; live sea cucumbers

Applicant may amend the identification to clarify or limit the goods and/or services, but not to broaden or expand the goods and/or services beyond those in the original application or as acceptably amended. See 37 C.F.R. §2.71(a); TMEP §1402.06. Generally, any deleted goods and/or services may not later be reinserted. See TMEP §1402.07(e). Additionally, for applications filed under Trademark Act Section 66(a), the scope of the identification for purposes of permissible amendments is limited by the international class assigned by the International Bureau of the World Intellectual Property Organization (International Bureau); and the classification of goods and/or services may not be changed from that assigned by the International Bureau. 37 C.F.R. §2.85(d); TMEP §§1401.03(d), 1904.02(b). Further, in a multiple-class Section 66(a) application, classes may not be added or goods and/or services transferred from one existing class to another. 37 C.F.R. §2.85(d); TMEP §1401.03(d).

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO’s online searchable *U.S. Acceptable Identification of Goods and Services Manual*. See TMEP §1402.04.

## RESPONSE GUIDELINES

For this application to proceed further, applicant must explicitly address each refusal and/or requirement raised in this Office action. If the action includes a refusal, applicant may provide arguments and/or evidence as to why the refusal should be withdrawn and the mark should register. Applicant may also have other options specified in this Office action for responding to a refusal, and should consider those options carefully. To respond to requirements and certain refusal response options, applicant should set forth in writing the required changes or statements. For more information and general tips on responding to USPTO Office actions, response options, and how to file a response online, see “[Responding to Office Actions](#)” on the USPTO’s website.

If applicant does not respond to this Office action within six months of the date on which the USPTO sends this Office action to the International Bureau, or responds by expressly abandoning the application, the application process will end and the trademark will fail to register. See 15 U.S.C. §1062(b); 37 C.F.R. §§2.65(a), 2.68(a); TMEP §§711, 718.01, 718.02.

When an application has abandoned for failure to respond to an Office action, an applicant may timely file a petition to revive the application, which, if granted, would allow the application to return to active status. See 37 C.F.R. §2.66; TMEP §1714. The petition must be filed within two months of the date of issuance of the notice of abandonment and may be filed online via the Trademark Electronic Application System (TEAS) with a \$100 fee. See 37 C.F.R. §§2.6(a)(15)(ii), 2.66(a)(1), (b)(1).

**WHO IS PERMITTED TO RESPOND TO THIS PROVISIONAL FULL REFUSAL:** Any response to this provisional refusal must be personally signed by an individual applicant, all joint applicants, or someone with legal authority to bind a juristic applicant (e.g., a corporate officer or general partner). 37 C.F.R. §§2.62(b), 2.193(e)(2)(ii); TMEP §712.01. If applicant hires a qualified U.S. attorney to respond on his or her behalf, then the attorney must sign the response. 37 C.F.R. §§2.193(e)(2)(i), 11.18(a); TMEP §§611.03(b), 712.01. Qualified U.S. attorneys include those in good standing with a bar of the highest court of any U.S. state, the District of Columbia, Puerto Rico, and other U.S. commonwealths or U.S. territories. See 37 C.F.R. §§2.17(a), 2.62(b), 11.1, 11.14(a); TMEP §§602, 712.01. Additionally, for all responses, the proper signatory must personally sign the document or personally enter his or her electronic signature on the electronic filing. See 37 C.F.R. §2.193(a); TMEP §§611.01(b), 611.02. The name of the signatory must also be printed or typed immediately below or adjacent to the signature, or identified elsewhere in the filing. 37 C.F.R. §2.193(d); TMEP §611.01(b).

In general, foreign attorneys are not permitted to represent applicants before the USPTO (e.g., file written communications, authorize an amendment to an application, or submit legal arguments in response to a requirement or refusal). See 37 C.F.R. §11.14(c), (e); TMEP §§602.03-.03(b), 608.01.

**DESIGNATION OF DOMESTIC REPRESENTATIVE:** The USPTO encourages applicants who do not reside in the United States to designate a domestic representative upon whom any notice or process may be served. TMEP §610; see 15 U.S.C. §§1051(e), 1141h(d); 37 C.F.R. §2.24(a)(1)-(2). Such designations may be filed online at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

/Samuel R. Paquin/  
Examining Attorney  
Law Office 101  
(571) 272-2514  
[samuel.paquin@uspto.gov](mailto:samuel.paquin@uspto.gov)

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**All informal e-mail communications relevant to this application will be placed in the official application record.**

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

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## THE USAGE PANEL

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## Baltic <sup>ˈbɒl ˌtɪk</sup>

adj.

1. Of or relating to the Baltic Sea, the Baltic States, or a Baltic-speaking people.
2. Of or relating to the branch of the Indo-European language family that contains Latvian, Lithuanian, and Old Prussian.

n.

The Baltic language branch

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