

MADRID AGREEMENT AND PROTOCOL

PROVISIONAL REFUSAL OF PROTECTION

Rule 17(1)

I.	Office making the notification: Ukrainian Intellectual Property Institute 1 Hlazunova str. Kyiv-42, 01601 Ukraine
II.	Number of the international registration: 1387991
III.	Name of the holder: GUANGZHOU DARING INTERNATIONAL FORWARDING CO., LTD. Rm. 719, No. 799, Sanyuanli Avenue, Baiyun Dist. Guangzhou (CN)
IV.	☒ Provisional refusal based on an <i>ex officio</i> examination ☐ Provisional refusal based on an opposition ☐ Provisional refusal based on both an <i>ex officio</i> examination and an opposition
V.	☒ Provisional refusal for all the goods and/or services ☐ Provisional refusal for the following goods and/or services:
VI.	Grounds for refusal: The sign shall not be registered as mark because it is misleadingly similar to marks that were earlier registered in Ukraine on behalf of another person for similar goods or services.
VII.	Information relating to an earlier mark: Registration № 128769 of 27.09.2010 on the name of Kovalenko Ihor Mykhailovych; vul. Druzhby Narodiv, 240, kv. 79, m. Kharkiv, 61183 (UA) International registration № 906994 of 24.03.2006 on the name of Emil Lux GmbH & Co. KG; Emil-Lux-Straße 1 42929 Wermelskirchen (DE). Priority: DE, 27.09.2005, 305 57 533.3/06
VIII.	Corresponding essential provisions of the applicable law (see text under XII): Article 6.3.1
IX.	Information relating to subsequent procedure: (i) Time limit for requesting review or appeal: 3 months from the date of the notification of provisional refusal. This period may be extended for no more than 6 months provided that the relevant request is submitted and the fee in connection with the request is paid before the date of expiry of this period. (ii) Authority to which such request for review or appeal should be made: Ukrainian Intellectual Property Institute (iii) Foreign and other persons residing or having a permanent location outside Ukraine exercise their rights in relations with the Office through representatives registered under the Regulations for Representatives on Intellectual Property Matters, approved by the Cabinet of Ministers of Ukraine. (iv) Indications concerning the appointment of a representative: http://www.sdip.gov.ua/en/attorneys_register_2.html

X. Date of the notification of provisional refusal: 16.10.2018

XI. Signature or official seal of the Office making the notification:

A handwritten signature in black ink, appearing to read 'Sukhinova', enclosed within a large, loopy, handwritten flourish.

Head of the Department of
International Trademark Registrations

Svitlana Sukhinova

XII. Corresponding essential provisions of the applicable law:

**SECTION II
LEGAL PROTECTION OF MARKS**

Article 5. Conditions of Granting the Legal Protection

1. The legal protection is granted to a mark that does not contradict the public order, humane and moral principles, requirements of the Law of Ukraine "On the condemnation of the communist and national socialist (Nazi) totalitarian regimes in Ukraine and prohibition of propaganda of their symbols" and is not subject to the refusal of the rights protection according to the grounds defined by this Law.
2. The object of a mark may be any sign or any combination of signs such as words including personal names, letters, numerals, figurative elements, colors and combinations of colors as well as any combination of such signs. Objects of a mark may not be proper names or pseudonyms of the persons who held senior positions in the Communist Party (the District Committee Secretary position and higher), in the higher governmental and management bodies of the Union of Soviet Socialist Republics, the Ukrainian Soviet Socialist Republic (the Ukrainian Socialist Soviet Republic), other Union or Autonomous Soviet Republics (except the cases related to the Ukrainian science and culture development) and who worked in the Soviet state security bodies; names of the Union of Soviet Socialist Republics ("CPCP"), the Ukrainian Soviet Socialist Republic ("YPCP") (the Ukrainian Socialist Soviet Republic ("YCPP")), other Union or Autonomous Soviet Republics and their derivatives; names associated with the Communist Party activity, the Soviet power establishment within the territory of Ukraine or within its individual administrative territories, persecution of those who struggled for independence of Ukraine in the 20th century.

Article 6. Grounds for Refusal of the Legal Protection

1. According to this Law, the legal protection shall not be granted for marks that represent or imitate:
State armorial bearings, flags, and other state symbols (emblems); official names of States; symbols and abbreviated or full names of international intergovernmental organizations; official control, guarantee, or testing seals, stamps; decorations and other honorary signs.
The said signs may be included in a mark as non-protected elements, provided that the consent of the relevant authorized body or of the sign owners was obtained. The authorized body with respect to the name of a State is the collegial body established by the Office.
2. According to this Law, the legal protection shall not be granted for marks that:
 - 1) are usually devoid of distinguishing capacity and did not obtain such a capacity through their use;
 - 2) consist exclusively of signs that are commonly used as the signs of goods and services of a certain type;
 - 3) consist exclusively of signs or data that are descriptive while using for goods and services defined in the application or with respect to them, in particular signs or data that indicate kind, quality, composition, quantity, properties, purposes, value of goods and services, the place and time of manufacturing or sale of goods or rendering of services;
 - 4) are deceptive or liable to mislead as to goods, services, or the person producing goods or rendering services;
 - 5) consist exclusively of signs that are commonly used symbols and terms;
 - 6) present only the form caused by the natural state of goods, or by the necessity to get a specific technical result, or the form imparting the essential value to the goods.The signs mentioned in Items 1, 2, 3, 5 and 6 of this Paragraph may be used in a mark as non-protected elements if these signs are not dominative in the reproduction of a mark.
3. Signs shall not be registered as marks if they are identical or misleadingly similar to:
 - 1) marks that were earlier registered or filed for the registration in Ukraine on behalf of another

person for identical or similar goods and services;

2) marks of other persons if these marks are protected without registration according to the international agreements to which Ukraine is a party, in particular the marks recognized as well-known marks according to Article 6-bis of the Paris Convention for the Protection of Industrial Property;

3) trade names that are known in Ukraine and belong to other persons who have acquired the right to the said names before the date of filing the applications to the Office with respect to identical or similar goods and services;

4) qualified indications of the origin of goods (including alcohols and alcohol drinks) that are protected according to the Law of Ukraine "On the Protection of Rights to Indication of the Origin of Goods"; the said signs may be used only as non-protected elements of the marks of the persons who have the right to use the said indications;

5) conformity marks (certification marks) that have been registered under the determined procedure.

4. Signs shall not be registered if they represent:

1) industrial designs, the rights to which in Ukraine belong to other persons;

2) titles of scientific, literary, and artistic works known in Ukraine or quotations and characters from the said works as well as the artistic works and their fragments without the consent of copyright holders or their successors in title;

3) surnames, first names, pseudonyms and their derivatives, portraits and facsimiles of persons known in Ukraine without their consent.

5. Signs shall not be subject to legal protection and shall not be registered as marks that contradict the requirements of Paragraph 2 of Article 5 of this Law and the requirements of the Law of Ukraine "On the condemnation of the communist and national socialist (Nazi) totalitarian regimes in Ukraine and prohibition of propaganda of their symbols".

- (111) **128769**
(151) 27.09.2010
(181) **16.04.2019**
(210) **m200904379**
(220) 16.04.2009
(450) 27.09.2010, Бюл. № 18
(731) Коваленко Ігор Михайлович;
вул. Дружби Народів, 240, кв. 79, м. Харків, 61183 (UA)
(732) **Коваленко Ігор Михайлович;**
вул. Дружби Народів, 240, кв. 79, м. Харків, 61183 (UA)
(750) Коваленко Ігор Михайлович;
вул. Дружби Народів, 240, кв. 79, м. Харків, 61183 (UA)
(510) Кл.: 25, 35

ЛЮКС+, ЛЮКС, +

Л Ю К С+

24.13.01

24.17.05

28.05.00

- 25 Взуття; калоші; пляжне взуття; чоботи.
35 Вивчання ринку; демонстрування товарів; ділове інформування;
комерційне інформування; комерційні операції; рекламування; сприяння
продажеві (посередництво), всі вищезазначені послуги, пов'язані з введенням у цивільний оборот зазначених товарів
25 класу; розміщування в одному місці, на користь іншим особам, асортименту взуття із полівінілхлоридного
пластикату та гуми, яке дозволяє покупцям зручно оглядати та купувати ці товари у магазинах роздрібної торгівлі.

(151) 24.03.2006

(180) 24.03.2026

(270) English

(300) DE, 27.09.2005, 305 57 533.3/06

(732) Emil Lux GmbH & Co. KG

Emil-Lux-Straße 1

42929 Wermelskirchen; DE

(812) DE

(740) dompatent von Kreisler Selting Werner -

Partnerschaft von Patentanwälten und

Rechtsanwälten mbB

Deichmannhaus am Dom,

Bahnhofsvorplatz 1

50667 Köln; DE

(822) DE, 02.02.2006, 305 57 533.3/06

(834) Ukraine is designated under the Madrid Protocol by virtue of Article 9sexies

(511) Cl.: 01, 03, 04, 06, 07, 08, 09, 11, 12, 16, 17, 18, 20, 21, 22, 24, 25, 26



24.13.00	24.13.05	24.13.22	26.01.18
26.04.10	27.05.00	27.05.01	

01 Metal tempering and soldering preparations, adhesives for industrial use, cartridges for glue guns.

Préparations pour la trempe et la soudure des métaux, adhésifs (matières collantes) destinés à l'industrie, cartouches de pistolets à colle.

03 Scouring preparations, abrasive paper.

Préparations pour abraser, papiers abrasifs.

04 Industrial oils and greases.

Huiles et graisses industrielles.

06 Ironmongery, small items of metal hardware of common metals and their alloys, in particular nails, brads, screws, washers, nuts, rivets, staples, hooks, grommets, dowels; metal wire and cable (not for electric purposes); rope wires, metal chains and accessories therefore as far as included in this class; metal cable clips; padlocks; tool cabinets, magazines for small items, tote boxes, sorting boxes, tool holders, machine tables, tool stands, work benches (all the above goods made of metal and for use in/as equipment of workshops, not adapted to the apparatus to receive); tool boxes and chests (empty) of metal; shafts and handles of metal for tools and gardening devices; straps of metal; load and transport rollers, rollers and wheels, as far as included in this class; oil cans, funnels, special containers, as far as included in this class (all the above goods made of metal); posts (of metal); installation material (of metal); fastening material (of metal); darbies.

Serrurerie et quincaillerie métalliques en métaux communs et leurs alliages, en particulier clous, pointes [clous], vis, rondelles, écrous, rivets, crampons, crochets, bagues de freins, pitons; fils et câbles métalliques (non à usage électrique); cordages métalliques, chaînes métalliques et leurs accessoires pour autant qu'ils soient compris dans cette classe; serre-câbles métalliques; cadenas; armoires à outils, rangements de petites pièces, bacs de manutention, caisses de tri, supports d'outils, tables de machines, socles d'outils, établis (tous les produits susmentionnés métalliques, standard et prévus pour équiper les ateliers ou pour compléter les équipements d'atelier); coffres et boîtes à outils métalliques (non équipés); manches et poignées métalliques d'outils et de matériel de jardinage; sangles métalliques; rouleaux de manutention et de chargement, rouleaux et roues, pour autant qu'ils soient compris dans cette classe; burettes d'huile, entonnoirs, récipients spéciaux, pour autant qu'ils soient compris dans cette classe (tous les produits susmentionnés en métal); poteaux (métalliques); matériel d'installation (métallique); matériel de fixation (métallique); règles à araser.

07 Machine tools and accessory parts and spare parts therefore, as far as included in this class; machines for tile laying, gas concrete and drywall construction, stone, screed and concrete work, electric and sanitary installation, brick laying, parquet, laminate and carpet laying, plaster work; electric tools for construction and do-it-yourself, including tool bits thereof; cordless screwdrivers, power saws, grinding machines, motor-driven polishing apparatus; hammer drills, power drills, electric planers, tile cutting machines, compressors, small electric tools, electric staplers, electric mills; mechanically operated gardening tools including lawn mowers and lawn trimmers; choppers, motor-driven hedge clippers and chain saws as well as accessories for mechanically operated gardening tools, namely collectors and covers for machines; spare parts for mechanically operated gardening tools, as far as included in this class; engines for tools; mobile generators; glue guns; soldering and welding apparatus (gas-operated), electric welding machines; pneumatic machines.

Machines-outils et leurs accessoires et pièces détachées, pour autant qu'ils soient compris dans cette classe; machines employées dans les domaines suivants: carrelage, construction en béton cellulaire et contre-murs en maçonnerie sèche, travaux de pierre, de chape et de bétonnage, installations électriques et sanitaires, briquetage, pose de parquet, de stratifié et de moquette, plâtrage; outils électriques de construction et de bricolage, y compris leurs jeux; visseuses sans fil, scies à moteur, broyeurs [machines], machines à polir motorisées; marteaux perforateurs, perceuses électriques, raboteuses électriques, carrelottes, compresseurs, petits outils électriques, agrafeuses électriques, moulins électriques; outils de jardinage actionnés mécaniquement, y compris tondeuses à gazon et taille-bordures; hacheuses, taille-haie à moteur et tronçonneuses, ainsi qu'accessoires d'outils de jardinage actionnés mécaniquement, à savoir dispositifs de collecte et capots de machines; pièces détachées d'ustensiles de jardinage actionnés mécaniquement, pour autant qu'elles soient comprises dans cette classe; moteurs d'outils; générateurs mobiles; pistolets à colle; postes à souder (à gaz), postes à souder électriques; machines

pneumatiques.

- 08 Hand tools for tile laying, gas concrete and drywall construction, stone, screed and concrete work, electric and sanitary installation, brick laying, parquet, laminate and carpet laying, plaster work; hand tools including cutting, separating, embossing and hammering tools, especially axes, hatchets, chisels, drills, files, rasps, tappers, hammers, planers, clips, trowels, spatulas, saws, wrenches, screwdrivers, socket wrenches and socket wrench bits, vices, pliers, tool holders, manually operated gripping and carrying devices, including stone carrying devices, sanding blocks, clamps, riveting tongs, eyelet-closing pliers, hand-held staplers and staples and nails therefore; manually operated tile cutting devices, knives, especially pocket knives, cutter lames, glass cutters, carpet cutters, blades; scissors, including household scissors, gardening scissors, pruning shears, lopping shears, hedge shears, manually operated gardening tools, including forks, hoes, spades, shovels, rakes, sickles, scythes, trimmers and manually operated lawn mowers; snow shovels; manually operated air assisted sprayers; manually operated pneumatic apparatus; tool boxes and tool holders (the above goods adapted to the tools to receive); hand-held air assisted sprayers for releasing liquids; scribing tools; spatulas and scrapers (hand tools).
- Outils à main employés dans les domaines suivants: carrelage, construction en béton cellulaire et à sec, travaux de pierre, de chape et de bétonnage, installations électriques et sanitaires, briquetage, pose de parquet, de stratifié et de moquettes, plâtrage; outils à main, y compris outils destinés à découper, séparer, gaufrer et marteler, spécialement haches, hachettes, ciseaux, drilles, limes, râpes, tarauds, marteaux, rabots, pinces, truelles, spatules, scies, clefs, tournevis, clés à douilles et jeux de clés à douille, étaux, tenailles, supports d'outils, dispositifs de saisie et de transport entraînés manuellement, y compris dispositifs de portage de pierres, cales à poncer, serre-joints, pinces à rivets, pinces à oeilletons, agrafeuses à main, ainsi que leurs agrafes et clous; carrelages à commande manuelle, couteaux, spécialement canifs, lames de coupeurs, diamants de vitrier, coupeurs de moquette, lames; ciseaux, y compris ciseaux de ménage, cisailles de jardinage, échenilloirs, ébranchoirs, cisailles à haies, outils de jardinage à commande manuelle, y compris fourches, houes, bêches, pelles, râteaux, faucilles, faux, taille-haies et tondeuses à gazon entraînés manuellement; pelles à neige; pulvérisateurs pneumatiques entraînés manuellement; appareils pneumatiques à commande manuelle; boîtes à outils et supports d'outils (adaptés aux outils qu'ils contiennent); pulvérisateurs pneumatiques de liquides (tenus à la main); outils à tracer; spatules et racloirs (outils à main).
- 09 Measuring apparatus and tools; measuring tapes, yardsticks, rulers, plumbs, angles, goniometers, compasses, leveling rods, leveling rods with bubble level, water levels, also with laser technology, gauges, calipers; electric measuring instruments; thermometers; metal detectors; material for electric lines (cables, wires), electric installation material, as far as included in this class; soldering and welding apparatus (electric); industrial safety garment as far as included in this class, goggles, protective masks, dust masks, filters for protective masks, hearing protectors, as far as included in this class, working and protective gloves as far as included in this class, hard hats, kneepads, accessories for protection during welding, namely protective garment, gloves, aprons, sleeves, face protecting masks, face protecting shields, welding glasses; safety belts and fastening belts except for vehicle seats, as far as included in this class.
- Outils et appareils de mesure; mètres-rubans, décamètres, règles, fils à plomb, équerres, goniomètres, compas, mires de nivellement, mires de nivellement dotées de niveau à bulle d'air, niveaux à eau, également à laser, jauges, calibres; instruments de mesure électriques; thermomètres; détecteurs de métaux; matériel destiné aux lignes électriques (câbles, fils) et aux installations électriques, pour autant qu'il soit compris dans cette classe; postes à souder (électriques); vêtements de sécurité pour l'industrie, pour autant qu'ils soient compris dans cette classe, lunettes de protection, masques de protection, masques anti-poussière, filtres de masques de protection, protections auditives, pour autant qu'ils soient compris dans cette classe, gants de travail et de sécurité, pour autant qu'ils soient compris dans cette classe, casques de sécurité, genouillères, accessoires protégeant les soudeurs, à savoir gants, tabliers, manchons et vêtements de protection, masques protégeant le visage, écrans protégeant le visage, lunettes de soudure; ceintures de sécurité et courroies de fixation non destinées aux sièges de véhicules, pour autant qu'elles soient comprises dans cette classe.
- 11 Parts of water conducting apparatus with a rain effect; garden sprinklers for plants and showers, garden showers.
- Parties d'appareils de distribution d'eau reproduisant l'effet de la pluie; arroseurs de jardin destinés aux plantes et aux douches, douches de jardin.
- 12 Apparatus and parts of apparatus for land transport, namely load and transport rollers, rollers and wheels, as far as included in this class; hose trolleys.
- Appareils et leurs parties, destinés au transport par voie terrestre, à savoir rouleaux et roues de chargement et de manutention, rouleaux et roues, pour autant qu'ils soient compris dans cette classe; chariots de tuyaux flexibles.
- 16 Painters' materials; paint trays and paint stripping lattices; protective papers for protection against paint splashes and dirt; marking chalk, chalk holders, carpenter's pencils; rulers; adhesives and adhesive tapes for paper and stationery as well as for household purposes; artists' materials.
- Matériel pour les peintres; bacs à peinture et grilles à rouleau; papiers protégeant des éclaboussures de peinture et saletés; craie à marquer, porte-craie, crayons de menuisiers; règles; adhésifs (matières collantes) et rubans adhésifs pour le papier, la papeterie et les besoins ménagers; matériel pour les artistes.
- 17 Plastic foils (except for packaging); adhesive tapes for industrial use, double-sided adhesive tape for laying carpets, adhesive tape as insulating material; rubber ropes; insulating gloves; seals; sealing, isolating and insulating material as far as included in this class; hoses, gardening hoses as well as couplings and connecting parts therefore, as far as included in this class.
- Films en matières plastiques (non destinés à l'emballage); rubans adhésifs à usage industriel, rubans adhésifs double face destinés à poser les moquettes, rubans adhésifs servant d'isolant; cordes en caoutchouc; gants isolants; joints; matières d'étanchéité, d'isolation et d'insonorisation, pour autant qu'elles soient comprises dans cette classe; tuyaux flexibles, tuyaux de jardin, ainsi que leurs parties de raccordements et accouplements, pour autant qu'ils soient compris dans cette classe.
- 18 Tool bags, tool aprons and cases (empty) of leather or imitations of leather.
- Sacs à outils, tabliers de menuisier et caisses (vides) en cuir ou en imitations du cuir.
- 20 Tool cabinets, magazine racks, tote boxes, sorting boxes, tool boxes of wood or plastic, machine tables, tool stands, work

benches (all the above goods not made of metal and for use in/as equipment of workshops, not adapted to the items to receive); pasting tables, straightening tables; tool bags, boxes and cases (empty), not of metal, not of leather; shafts and handles for tools and gardening tools, not of metal; plastic chains, rope clamps, chain clamps, bolts, dowels, screws, nuts, washers, hooks, rivets (all the above goods not of metal); transport pallets; special containers not of masonry, not of metal, as far as included in this class; material (not of metal) for the installation of electric wires and pipes; fastening material (not of metal), namely, cable ties.

Armoires à outils, rangements pour petites pièces, bacs de manutention, caisses de tri, caisses à outils en bois ou en plastique, tables de machines, socles d'outils, établis (tous les produits susmentionnés métalliques, standard et destinés à équiper les atelier ou à compléter les équipements d'atelier); tables à tapisser, tables de travail; caisses, boîtes et sacs à outils (non équipés) ni en métaux, ni en cuir; manches et poignées d'outils et d'outils de jardinage, non métalliques; chaînes en plastique, serre-cordes, colliers de serrage de chaînes, boulons, chevilles, vis, écrous, rondelles, crochets, rivets (tous les produits susmentionnés non métalliques); palettes de transport; récipients spéciaux ni en maçonnerie, ni en métaux, pour autant qu'ils soient compris dans cette classe; matériel (non métallique) d'installation de fils électriques et tuyaux; matériel de fixation (non métallique), à savoir attaches de câbles.

- 21 Gloves for household and cleaning purposes, gardening gloves; cleaning material; scrubs, wipers; sponges; brushes (except for paint brushes), brooms, swabs, sweeping sets; steel wool for cleaning purposes; funnels; buckets; extension and telescopic rods for handles; laundry lines; traps for insects, mice and rats; plant pots, plant and flower holders (as far as included in this class); towel and soap holders; sprinklers.

Gants de ménage et de nettoyage, gants de jardinage; articles d'entretien; balais-brosses, serpillières; éponges; brosses (à l'exception des pinceaux), balais, balayettes et ramasse-poussière; paille de fer pour le nettoyage; entonnoirs; seaux; allonges et bâtons télescopiques de manches; cordes à linge; pièges à insectes, souris et rats; pots de fleur, supports de plantes et de fleurs (pour autant qu'ils soient compris dans cette classe); porte-serviettes et porte-savons; arroseurs.

- 22 Ropes and accessories therefore, as far as included in this class, nets; threads, cords; canvasses; carrying belts not of metal; strips (not of metal) for marking and warning.

Cordes et leurs accessoires, pour autant qu'elles soient comprises dans cette classe, filets; ficelles, cordons; grosses toiles; sangles de transport non métalliques; bandelettes (non métalliques) destinées à marquer et à avertir.

- 24 Non-woven fabric.

Non-tissés [textile].

- 25 Work and professional clothes, as far as included in this class, gloves and working gloves, as far as included in this class.

Vêtements de travail et vêtements professionnels, pour autant qu'ils soient compris dans cette classe, gants et gants de travail, pour autant qu'ils soient compris dans cette classe.

- 26 Velcro tapes.

Rubans auto-accrochants.

Registration

(450) 2006/49 Gaz, 11.01.2007

(831) AL - AM - AZ - BA - BG - BY - CH - CN - EG - HR - KG - KZ - MD - MK - RO - RU - TJ - **UA** - UZ - YU

(832) GE - IS - JP - NO - TM - TR

(580) 21.12.2006

Renewal

(450) 2016/23 Gaz, 16.06.2016

(832) GE - IS - NO - TM - TR - UZ

(834) AL - AM - AZ - BA - BG - BY - CH - CN - EG - HR - KG - KZ - MD - ME - MK - RO - RS - RU - TJ - **UA**

Data as of 02.10.2018