

PROVISIONAL REFUSAL

according to rule 17(1) of the Common Regulations under the Madrid Agreement and Protocol

Refusal based on an opposition

I. Office:

INSTITUTO NACIONAL DA PROPRIEDADE INDUSTRIAL

DIREÇÃO DE MARCAS E PATENTES

Campo das Cebolas

1149-035 – LISBOA PORTUGAL

Fax.: 21 886 98 59

Tel.: 21 881 81 00

Link: <http://www.inpi.pt/>

E-mail: atm@inpi.pt

II. International registration number: 1420001

Trademark elements: AIWA

III. Name and address of the holder: DANVISTANO TRADING LTD.

CORNER HUTSON & EYRE STREET, BLAKE BUILDING, SUITE 302 BELIZE CITY, BELIZE

IV. Grounds for refusal:

a) Corresponding essential provisions of the applicable law under IX:

Art.11, n.1, Art. 245, n.1, n.2, Art.222, n.1, Art. n.1, a), n.2, a), Art.254, Art. 317, n.1, a), do CPI.

V. Opponent rights.

Application/registration number:142057(applicant national)

Filing Date: 20/04/1967

Registration date (if available): 10/01/1969

Priority date (if any):N.A

Name and address of the opponent:

AIWA CO., LTD, 1-6-3, HIGASHI-GOTANDA, SHINAGAWA-KU, TOKYO

Trademark:

AIWA

List of goods and services on which the opposition is based:

Classe 09: Microfones, gira-discos, gravadores de fita, aparelhos de rádio e aparelhos de televisão.

V. Opponent rights.

Application/registration number:278612(applicant national)

Filing Date: 28/11/1991

Registration date (if available): 25/08/1993

Priority date (if any):N.A

Name and address of the opponent:

AIWA CO., LTD, 1-6-3, HIGASHI-GOTANDA, SHINAGAWA-KU, TOKYO

Trademark:

aiwa

List of goods and services on which the opposition is based:

Classe 09: Aparelhos e instrumentos científicos, náuticos, geodésicos, elétricos, fotográficos, cinematográficos, ópticos, de pesagem, de medida, de sinalização, de verificação (inspeção), de socorro (salvamento) e de ensino; aparelhos para o registo, a transmissão, a reprodução do som ou de imagem; suportes de registo magnético, discos acústicos; distribuidores automáticos e mecanismos para aparelhos de pré-pagamento; caixas registadoras, máquinas de calcular, equipamento para

o tratamento de informaçãoe computadores e extintores.

VI. Refusal for all the goods.

VII. Answer to the decision of refusal:

- a) **Time limit to file an answer:** Within two (2) months following the date of the notification of provisional refusal sent by WIPO. This period can be extended once, for one (1) month, at the request of the interested party. The extension of period must be submitted before the first two (2) month period is over.

The answer and payment to this notification can be submitted electronically through the Website online services, available at www.inpi.pt (upon requiring the use of a digital signature certificate). In the case of electronic reply, the applicant will benefit of a fee discount of 50%.

Otherwise, the answer and payment to this notification can be submitted in person or by Mail, with the proper form (available for download at [FORM M4](#)) and the respective means of payment (a bank check, issued to the National Institute of Industrial Property).

The atual values to be paid can be found at www.inpi.pt. If further clarification is necessary, please contact us via telephone at **+351 21 881 81 00** or send an email to atm@inpi.pt

b) Authority to which the answer should be filed:

INSTITUTO NACIONAL DA PROPRIEDADE INDUSTRIAL

DIREÇÃO DE MARCAS E PATENTES

Campo das Cebolas

1149-035 – LISBOA PORTUGAL

Fax.: 21 886 98 59

Tel.: 21 881 81 00

Link: <http://www.inpi.pt/>

E-mail: atm@inpi.pt

VIII. Date and signature: 2019.01.22 Jose Alves Ribeiro

IX. Corresponding essential provisions of the applicable law:

Industrial Property Code

(approved by Decree-Law 36/2003 of 5 March and amended by Decree-Law 318/2007 of 26 September, Decree-Law

360/2007 of 2 November, Decree-Law 143/2008 of 25 July and Law 16/2008 of 1 April)

Art. 222nd – Composition of trademark

- 1 – A trademark may consist of a sign or set of signs that can be represented graphically, namely words - including the names of persons -, drawings, letters, numbers and sounds, the form of the product or respective packaging, provided that they adequately distinguish the products and services of one company from those of others.
- 2 – A trademark may also consist of advertising phrases for the respective products or services, provided that they are distinct in character, regardless of the protection conferred upon them by copyright.

Art. 223rd – Exceptions

- 1 – The conditions of [article 222nd] are not met by:
 - a) - Trademarks that are devoid of any distinctive character;
 - b) - Signs that exclusively consist of the form imposed by the nature of the product itself, the form of the product necessary for obtaining a technical result or the form that confers a substantial value on the product;
 - c) - Signs that are exclusively made up of indications that may serve in commerce to designate the type, quality, quantity, purpose, value, geographic origin, period or means of production of the product or the service, or other characteristics thereof;
 - d) - Trademarks that exclusively consist of signs or indications that have become common use in modern-day language or in the habitual and constant habits of commerce;
 - e) - Colours, save where they are combined with each other or with graphics, wording or other particular and distinctive elements.

Art. 238th – Grounds for refusal of a registration

- 1 – [...] registration of a trademark is refused when:
 - a) - It consists of signs that cannot be represented graphically;
 - b) - It consists of signs devoid of any distinctive character;
 - c) - It consists exclusively of signs or indications referred to in Article 223(1) (b) to (e);[...]
- 4 – Registration of a trademark will also be refused if it contains in some or all of its constitutive elements:
 - a) - symbols, crests, emblems or distinctions of the state, municipalities or other Portuguese or foreign public or private bodies, the emblem and name of the Red Cross or other similar bodies and any signs covered by Article 6-ter of the Paris Convention for the Protection of Industrial Property;
 - b) - signs of a high symbolic value, such as religious symbols, unless these are authorised;
 - c) - expressions or figures that are contrary to the law, morals, public order and morality;
 - d) - signs that may mislead the public, namely as to the nature, properties, utility or geographic origin of the product or service for which the trademark is designed.
- 5 – Registration of a trademark that is made up exclusively of the national flag of the Portuguese Republic or some of its constitutive elements will also be refused.
- 6 – Registration will also be refused for a trademark that contains, amongst other elements, the national flag, wherever the trademark is likely to:
 - a) - mislead the public as to the geographic origin of the products or services for which it is designed;
 - b) - lead the consumer to erroneously think that the products or services come from an official body;
 - c) - generate disrespect or a diminution of prestige for the national flag or any of its elements.

Art. 239th – Other grounds for refusal

- 1 – Further grounds for refusal of registration of a trademark are:
 - a) - reproduction or imitation of all or part of a trademark previously registered by another person for identical or similar products or services that may mislead or confuse the consumer or comprise the risk of association with the already registered trademark;
 - b) - reproduction or imitation of all or part of a logotype already registered by another person to distinguish an entity whose activity is identical or similar to the products or services for which the trademark is designed, if it is likely to mislead or confuse the consumer;
 - c) - violation of other industrial property rights;
 - d) - the use of names, portraits or any other expressions or figurations without the authorisation of the persons they relate to or, if these are deceased, of their heirs or relatives to the fourth degree or, if authorisation is obtained, if it generates disrespect or diminution of prestige for those persons;
 - e) - recognition that the applicant's intent is one of unfair competition or that unfair competition is a possible outcome, regardless of the applicant's intention.
- 2 – When cited in an opposition, the following are also grounds for refusal:
 - a) - reproduction or imitation of a business or corporate name and other distinctive signs, or merely a characteristic part thereof, that do not belong to the applicant or where the applicant is not authorised to use them, if it is likely to mislead or confuse the consumer;
 - b) - violation of copyright; [...]

The English version of the Industrial Property Code is available at: <http://www.inpi.pt>

Marca de Registo Internacional nº 1420001

*Exmo. Sr. Director da Direcção das
Marcas e Patentes do Instituto Nacional da
Propriedade Industrial*

Ref. 1569

AIWA CO.,LTD, sociedade comercial nipónica, com sede em 1-6-3, Higashi-Gotanda, Shinagawa-Ku, Tóquio, Japão, vem ao abrigo do artigo 17º, nº1, do Código da Propriedade Industrial¹, com as alterações introduzidas pelo Decreto-Lei nº143/2008, de 25 de Julho e posteriores alterações, apresentar

RECLAMAÇÃO

contra o pedido de protecção em Portugal da marca de registo internacional nº 1420001

aiwa

, requerido por **DANVISTANO TRADING LTD**, com sede em Corner Hutson & Eyre Street, Blake Building, Suite 302 Belize City, Belize, o que faz nos termos e com os fundamentos seguintes:

¹ Doravante CPI.

I - Legitimidade e Tempestividade

1.

Mediante consulta do Boletim da Propriedade Industrial nº 220/2018, de 15 de Novembro de 2018, a Reclamante tomou conhecimento do pedido de protecção em Portugal para a marca de registo internacional nº1420001 **aiwa**, ora reclamado.

2.

Nos termos conjugados dos artigos 17º, nº1 e 252º do CPI, quem se julgar prejudicado pela eventual concessão de protecção em Portugal de uma marca de registo internacional registo pode reclamar, dispondo para esse efeito do prazo de dois meses a contar da data de publicação do respectivo pedido no Boletim da Propriedade Industrial.

3.

Pelo que a presente Reclamação é apresentada tempestivamente.

4.

A Reclamante tem interesse directo e legítimo, porquanto seria prejudicada pela eventual concessão de protecção em Portugal da marca de registo internacional *sub judice*.

5.

Como melhor ficará demonstrado *infra*, a marca de registo internacional *sub judice* não reúne as condições legais para que lhe possa ser concedida protecção em Portugal.

II - Os Factos

6.

A marca de registo internacional nº 1420001, contra a qual se reclama, é um sinal misto formado pela palavra AIWA, inserida num conjunto com a seguinte configuração geral

The logo consists of the word "aiwa" in a bold, lowercase, sans-serif font. The letters are closely spaced, and the overall style is modern and minimalist.

7.

A referida marca encontra-se registada, em nome da Reclamada, desde 23 de Janeiro de 2018, na Organização Mundial da Propriedade Intelectual.

8.

O aviso do pedido de protecção em Portugal da referida marca foi publicado no Boletim da Propriedade Industrial nº 220/2018, de 15 de Novembro de 2018, destinando-se esta a assinalar os seguintes produtos

- **na classe 7ª**, *“Machines and machine tools; motors and engines [except for land vehicles]; machine coupling and transmission components [except for land vehicles]; agricultural implements, other than hand-operated; incubators for eggs; automatic vending machines; 3D printers; welding machines, electric; welding apparatus, gas-operated; vulcanisation apparatus; acetylene cleaning apparatus; high pressure washers; apparatus for drawing up beer under pressure; apparatus for aerating water; apparatus for aerating beverages; electrical apparatus for sealing plastics [packaging]; electric arc cutting apparatus; electric arc welding apparatus; electric welding apparatus; inking*

apparatus for printing machines; soldering apparatus, electric; fittings for engine boilers; expansion tanks [parts of machines]; drums [parts of machines]; reels, mechanical, for flexible hoses; brake shoes, other than for vehicles; concrete mixers [machines]; reels [parts of machines]; bobbins for weaving looms; harrows; journal boxes [parts of machines]; bulldozers; hoppers [mechanical discharging]; mine borers; truck lifts; rolling mill cylinders; crank shafts; printing rollers for machines; camshafts for vehicle engines; transmission shafts, other than for land vehicles; valves [parts of machines]; fans for motors and engines; saw benches [parts of machines]; winnowers; vibrators [machines] for industrial use; bearings [parts of machines]; water heaters [parts of machines]; bellows [parts of machines]; agitators; exhausts for motors and engines; drilling rigs, floating or non-floating; lawnmowers [machines]; card clothing [parts of carding machines]; nail pullers, electric; emergency power generators; alternators; dynamos; bicycle dynamos; current generators; generators of electricity; hydraulic controls for machines, motors and engines; mufflers for motors and engines; drilling heads [parts of machines]; drilling bits [parts of machines]; cylinder heads for engines; soldering blow pipes, gas-operated; gas-operated blow torches; raking machines; stalk separators [machines]; sieves [machines or parts of machines]; mud catchers and collectors [machines]; tarring machines; rubber tracks being parts of crawlers on mining machines; rubber tracks being parts of crawlers on snow ploughs; rubber tracks being parts of crawlers on loading-unloading machines and apparatus; rubber tracks being parts of crawlers on agricultural machines; rubber tracks being parts of crawlers on construction machines; hydraulic engines and motors; aeronautical engines; aeroplane engines;

engines for air cushion vehicles; motors, other than for land vehicles; compressed air engines; jet engines, other than for land vehicles; engines for boats; driving motors, other than for land vehicles; propulsion mechanisms, other than for land vehicles; de-aerators for feedwater; disintegrators; tympan [parts of printing presses]; holding devices for machine tools; turf removing ploughs; pump diaphragms; chisels for machines; jacks [machines]; rack and pinion jacks; moving pavements [sidewalks]; electric hand drills; crushers for kitchen use, electric; flues for engine boilers; reapers; reapers and binders; millstones; rakes for raking machines; kitchen grinders, electric; shredders [machines] for industrial use; injectors for engines; incubators for eggs; ski edge sharpening tools, electric; tools [parts of machines]; hand-held tools, other than hand-operated; agricultural implements, other than hand-operated; air condensers; control cables for machines, engines or motors; capstans; calenders; rotary steam presses, portable, for fabrics; ditchers [ploughs]; carburetters; carriages for knitting machines; crankcases for machines, motors and engines; steamrollers; pressure valves [parts of machines]; clack valves [parts of machines]; pressure reducers [parts of machines]; can openers, electric; cowlings [parts of machines]; machine wheels; freewheels, other than for land vehicles; scale collectors for machine boilers; lasts for shoes [parts of machines]; brake pads, other than for vehicles; piston segments; grease rings [parts of machines]; reapers and threshers; coal-cutting machines; compressors [machines]; air pumps [garage installations]; compressors for refrigerators; belt conveyors; conveyors [machines]; converters for steelworks; aerocondensers; steam condensers [parts of machines]; diggers [machines]; rams [machines]; thermic lances [machines]; mechanized livestock feeders;

boxes for matrices [printing]; gear boxes, other than for land vehicles; grease boxes [parts of machines]; housings [parts of machines]; harvesting machines; steam engine boilers; coffee grinders, other than hand-operated; taps [parts of machines, engines or motors]; roller bridges; cranes [lifting and hoisting apparatus]; water separators; spray guns for paint; cranks [parts of machines]; potters' wheels; grindstones [parts of machines] / sharpening wheels [parts of machines]; cultivators [machines]; soldering lamps; winches; ploughshares; belts for conveyors; lubricators [parts of machines]; igniting magnetos; handling machines, automatic [manipulators]; churns; matrices for use in printing; machine fly-wheels; hair clipping machines for animals; paper machines; blowing machines; knitting machines; galvanizing machines; bending machines; ironing machines; mineworking machines; blowing machines for the compression, exhaustion and transport of gases; blowing machines or fans for the compression, sucking and carrying of grain / blowing machines for the compression, sucking and carrying of grain / fans for the compression, sucking and carrying of grain; net hauling machines [fishing]; electroplating machines; bottle sealing machines; sealing machines for industrial purposes; embossing machines; engraving machines; finishing machines; crushing machines; garbage [waste] disposals; blade sharpening [stropping] machines / stropping machines; earth moving machines; cord making machines; lace making machines; butter machines; cigarette machines for industrial purposes; sausage making machines; stereotype machines; hosiery looms; grinding machines; dyeing machines; bottle washing machines; dishwashers; bottle filling machines; racket stringing machines; leather-working machines; dairy machines; glass-working machines; tobacco processing machines; grain

husking machines; painting machines; oil refining machines; peeling machines; machines for processing plastics; ore treating machines; printing machines for use on sheet metal; brewing machines; whitewashing machines; road sweeping machines, self-propelled; leather paring machines; bitumen making machines; papermaking machines; machines for making pasta; machines for the production of sugar; weeding machines; sifting machines; cinder sifters [machines]; puddling machines; notchers [machine tools]; bread cutting machines; road making machines; railroad constructing machines; machines for the textile industry; rammers [machines]; rail-laying machines; bottle capping machines; bottle stoppering machines; packaging machines; waste compacting machines; die-stamping machines; stamping machines; darning machines; milking machines; drainage machines; wrapping machines; grain separators; bookbinding apparatus and machines for industrial purposes; machines and apparatus for cleaning, electric; machines and apparatus for carpet shampooing, electric; machines and apparatus for polishing [electric]; sizing machines; punching machines; riveting machines; kitchen machines, electric; foundry machines; smoothing presses; fleshing machines; rinsing machines; flour mill machines; type-setting machines [printing]; hemming machines; grating machines for vegetables; braiding machines; wringing machines for laundry; cutting machines; steam engines; printing machines; rotary printing presses; compressed air machines; trimming machines; spinning machines; filling machines; friezing machines; cutters [machines]; satinizing machines; agricultural machines; mixing machines; sorting machines for industry; stitching machines; washing machines [laundry]; coin-operated washing machines; clippers [machines]; spinning frames; spin driers [not

heated]; looms; kneading machines; typographic machines; type-setting machines [photocomposition]; beating machines; beaters, electric; packing machines; filtering machines; molding machines; carding machines; sewing machines; typecasting machines; electromechanical machines for chemical industry; labellers [machines]; mills for household purposes, other than hand-operated; pepper mills, other than hand-operated; mills [machines]; centrifugal mills; machine wheelwork; feeders [parts of machines]; forge bellows; blenders, electric, for household purposes; mixers [machines]; vacuum cleaner bags; threshing machines; pneumatic hammers; hammers [parts of machines]; tilt hammers; power hammers; reeling apparatus, mechanical; motorized cultivators; motors for boats; clutches, other than for land vehicles; meat choppers [machines]; superchargers; brake linings, other than for vehicles; guides for machines; suction nozzles for vacuum cleaners; vacuum cleaner attachments for disseminating perfumes and disinfectants; aerating pumps for aquaria; vacuum pumps [machines]; compressed air pumps; pumps for heating installations; beer pumps; lubricating pumps; pumps [machines]; self-regulating fuel pumps; fuel dispensing pumps for service stations; centrifugal pumps; pumps [parts of machines, engines or motors]; blades [parts of machines]; knives for mowing machines; chaff cutter blades; knives, electric; shears, electric; scissors, electric; engine mounts, other than for land vehicles; bearing brackets for machines; pulverisers [machines]; axles for machines; steam traps; chucks [parts of machines]; drill chucks [parts of machines]; exhaust manifold for engines; soldering irons, gas-operated; soldering irons, electric; superheaters; gears, other than for land vehicles; reduction gears, other than for land vehicles; drilling machines; saws [machines]; chain saws;

glue guns, electric; compressed air guns for the extrusion of mastics; guns [tools using explosives]; carburetter feeders; feeding apparatus for engine boilers; loading ramps; ploughs; pneumatic transporters; pneumatic controls for machines, motors and engines; hangers [parts of machines]; anti-friction bearings for machines; roller bearings; self-oiling bearings; bearings for transmission shafts; ball-bearings; hoists; lifts, other than ski-lifts; elevators [lifts]; pulleys; saw blades [parts of machines]; shock absorber plungers [parts of machines]; pistons for engines; pistons [parts of machines or engines]; pistons for cylinders; catalytic converters; torque converters, other than for land vehicles; fuel conversion apparatus for internal combustion engines; wine presses; basket presses; fodder presses; presses [machines for industrial purposes]; printing presses; typographic presses; swaging machines; pedal drives for sewing machines; cleaning appliances utilizing steam; food processors, electric; springs [parts of machines]; spinning wheels; punches for punching machines; vacuum cleaners; tambours for embroidery machines; radiators [cooling] for motors and engines; sewage pulverizers; air brushes for applying colour; pressure regulators [parts of machines]; speed governors for machines, engines and motors; regulators [parts of machines]; cutting blow pipes, gas-operated; knives [parts of machines]; blade holders [parts of machines]; loom shafts; gears for weaving looms; belts for machines; elevator belts; fan belts for motors and engines; dynamo belts; belts for motors and engines; adhesive bands for pulleys; robots [machines]; kick starters for motorcycles; joysticks being parts of machines, other than for game machines; stuffing boxes [parts of machines]; paper feeders [printing]; whisks, electric, for household purposes; sparking plugs for internal combustion engines; glow plugs

for Diesel engines; brake segments, other than for vehicles; tedding machines; steam/oil separators; cream/milk separators; ball rings for bearings; sowers [machines]; pigs for cleaning pipes; snow ploughs; sheaf-binding machines; shaft couplings [machines]; fruit presses, electric, for household purposes; juice extractors, electric; chaff cutters; teat cups [suction cups] for milking machines; stands for machines; machine tools; die-cutting and tapping machines; woodworking machines; sharpening machines; bicycle assembling machines; mortising machines; stone-working machines; metalworking machines; threading machines; planing machines; lathes [machine tools]; milling machines; trueing machines; metal drawing machines; rolling mills; starters for motors and engines; stators [parts of machines]; glaziers' diamonds [parts of machines]; tables for machines; derricks; slide rests [parts of machines]; couplings, other than for land vehicles; heat exchangers [parts of machines]; transmissions for machines; transmissions, other than for land vehicles; boiler tubes [parts of machines]; wind turbines; hydraulic turbines; turbines, other than for land vehicles; turbocompressors; connecting rods for machines, motors and engines; joints [parts of engines]; central vacuum cleaning installations; suction machines for industrial purposes; washing installations for vehicles; degreasers [machines]; dust exhausting installations for cleaning purposes; machines for the production of mineral water; sifting installations; pneumatic tube conveyors; dust removing installations for cleaning purposes; condensing installations; lifting apparatus; air suction machines; dividing machines; igniting devices for internal combustion engines; door closers, hydraulic; door closers, pneumatic; door closers, electric; window closers, hydraulic; window closers, pneumatic; window closers, electric; washing apparatus; binding

apparatus for hay; extractors for mines; door openers, hydraulic; door openers, pneumatic; door openers, electric; window openers, hydraulic; window openers, pneumatic; window openers, electric; curtain drawing devices, electrically operated; adhesive tape dispensers [machines]; anti-pollution devices for motors and engines; beverage preparation machines, electromechanical; food preparation machines, electromechanical; elevator operating apparatus; control mechanisms for machines, engines or motors; shoe polishers, electric; machines and apparatus for wax-polishing, electric; air cushion devices for moving loads; handling apparatus for loading and unloading; elevating apparatus; aprons [parts of machines]; filter presses; filters [parts of machines or engines]; filters for cleaning cooling air, for engines; molds [parts of machines]; printing plates; journals [parts of machines]; centrifugal machines; elevator chains [parts of machines]; driving chains, other than for land vehicles; transmission chains, other than for land vehicles; cylinders for motors and engines; cylinders for machines; printing cylinders; pneumatic jacks; shuttles [parts of machines]; universal joints [Cardan joints]; pulleys [parts of machines]; vacuum cleaner hoses; screwdrivers, electric; dynamo brushes; brushes [parts of machines]; brushes for vacuum cleaners; brushes, electrically operated [parts of machines]; carbon brushes [electricity]; ejectors; fuel economisers for motors and engines; excavators; shovels, mechanical; agricultural elevators; motors, electric, other than for land vehicles; electrodes for welding machines; electric hammers; parquet wax-polishers, electric; cartridges for filtering machines; moving staircases [escalators]; automatic grapnels for marine purposes”.

- **na classe 8ª**, “*Hand tools and implements [hand-operated]; cutlery; side arms; razors; glaziers' diamonds [parts of hand tools]; apparatus for tattooing; razors, electric or non-electric; sharpening steels; scythe stones; gimlets [hand tools]; borers; carpenters' augers; augers [hand tools]; hand drills, hand-operated; pickhammers / bushhammers; levers; table forks; weeding forks [hand tools]; agricultural forks [hand tools]; lawn clippers [hand instruments]; harpoons; harpoons for fishing; nail pullers, hand-operated; sand trap rakes; rakes [hand tools]; cutter bars [hand tools]; whetstone holders; sculptors' chisels; spades [hand tools]; rabbeting planes; chisels; engraving needles; tattoo needles; edge tools [hand tools]; garden tools, hand-operated; abrading instruments [hand instruments]; numbering punches; goffering irons; implements for decanting liquids [hand tools]; depilation appliances, electric and non-electric; sharpening instruments; blade sharpening instruments; livestock marking tools; nail clippers, electric or non-electric; oyster openers; polishing irons [glazing tools]; ear-piercing apparatus; tube cutting instruments; wire strippers [hand tools]; riveters [hand tools]; expanders [hand tools]; cutting tools [hand tools]; ski edge sharpening tools, hand-operated; hand tools, hand-operated; stamping-out tools [hand tools]; picks [hand tools]; sharpening stones; punch rings [knuckle dusters]; trowels; centre punches [hand tools]; daggers; pickaxes; mallets [hand instruments]; pliers; punch pliers [hand tools]; blades [weapons]; annular screw plates; tap wrenches; wrenches [hand tools]; ladles [hand tools]; foundry ladles [hand tools]; breast drills; lasts [shoemakers' hand tools]; scythe rings; instruments for punching tickets; diggers [hand tools]; rams [hand tools]; scythes; hainault scythes; fire irons; emery grinding wheels; grindstones [hand tools]; sledgehammers; thistle*

extirpators [hand tools]; nail nippers; tree pruners; nail drawers [hand tools]; ice picks; razor blades; blades for planes; plane irons; blades [hand tools]; jigsaws; spoons; baby spoons, table forks and table knives; plastic spoons, table forks and table knives; crow bars; trowels [gardening]; shovels [hand tools]; palette knives; machetes; beard clippers; hair clippers for personal use, electric and non-electric; hair clippers for animals [hand instruments]; taps [hand tools]; fireplace bellows [hand tools]; swords; fullers [hand tools]; stone hammers; masons' hammers; riveting hammers [hand tools]; hammers [hand tools]; mattocks; ditchers [hand tools]; mincing knives [hand tools]; manicure sets; manicure sets, electric; pedicure sets; needle files; bits [hand tools]; files [tools]; emery files; air pumps, hand-operated; hand pumps; shaving cases; cheese slicers, non-electric; egg slicers, non-electric; pizza cutters, non-electric; scaling knives; hobby knives [scalpels]; molding irons; ceramic knives; can openers, non-electric; farriers' knives; budding knives; hunting knives; penknives; grafting tools [hand tools]; braiders [hand tools]; bill-hooks; paring knives; cleavers; wick trimmers [scissors]; shears; cattle shearers; border shears; pruning shears; shearers [hand instruments]; sword scabbards; vegetable slicers; agricultural implements, hand-operated; stropping instruments; screwdrivers, non-electric; sabres; reamer sockets; drill holders [hand tools]; perforating tools [hand tools]; pestles for pounding [hand tools]; emery boards; nail files; nail files, electric; bow saws; saws [hand tools]; tweezers; hair-removing tweezers; guns [hand tools]; non-electric caulking guns; guns, hand-operated, for the extrusion of mastics; dies [hand tools]; fruit pickers [hand tools]; saw blades [parts of hand tools]; shear blades; tool belts [holders]; table cutlery [knives, forks and spoons]; crimping irons; hand

implements for hair curling; vegetable choppers; money scoops; instruments and tools for skinning animals; fingernail polishers, electric or non-electric; hackles [hand tools]; pin punches; nail punches; fish tapes [hand tools]; punches [hand tools]; insecticide sprayers [hand tools]; syringes for spraying insecticides; reamers; frames for handsaws; saw holders; rasps [hand tools]; cutters; paring irons [hand tools]; graving tools [hand tools]; milling cutters [hand tools]; razor strops; leather strops; planes; scythe handles; knife handles; handles for hand-operated hand tools; marline spikes; hollowing bits [parts of hand tools]; bits [parts of hand tools]; secateurs; silver plate [knives, forks and spoons]; pruning knives; sickles; drawing knives; scrapers [hand tools]; scrapers for skis; mortise chisels; caulking irons; gouges [hand tools]; mortars for pounding [hand tools]; mitre [miter (am.)] boxes [hand tools]; branding irons; hatchets; adzes [tools]; vices; bench vices [hand implements]; hoop cutters [hand tools]; holing axes; axes; earth rammers [hand tools]; fulling tools [hand tools]; tube cutters [hand tools]; squares [hand tools]; extension pieces for braces for screw taps; embossers [hand tools]; apparatus for destroying plant parasites, hand-operated; metal wire stretchers [hand tools]; metal band stretchers [hand tools]; flat irons; irons [non-electric hand tools]; razor cases; ratchets [hand tools]; scraping tools [hand tools]; awls; choppers [knives]; spatulas for use by artists; spatulas [hand tools]; bayonets; curling tongs; cuticle tweezers; eyelash curlers.”

- **na classe 9ª**, “Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking [supervision], life-saving and teaching apparatus and instruments; apparatus and instruments for conducting,

switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus; 3D spectacles; DVD players; ticket dispensers; coin-operated musical automata [juke boxes]; fire engines; answering machines; electrical adapters; batteries for electronic cigarettes; accumulators, electric; accumulators, electric, for vehicles; accelerometers; actinometers; alidades; altimeters; ammeters; anemometers; anodes; antennas; anticathodes; apertometers [optics]; high-frequency apparatus; testing apparatus not for medical purposes; electro-dynamic apparatus for the remote control of railway points; electro-dynamic apparatus for the remote control of signals; remote control apparatus; monitoring apparatus, electric; sound recording apparatus; global positioning system [GPS] apparatus; distillation apparatus for scientific purposes; diffraction apparatus [microscopy]; air analysis apparatus; apparatus to check franking; sound transmitting apparatus; apparatus for fermentation [laboratory apparatus]; breathing apparatus for underwater swimming; breathing apparatus, except for artificial respiration; apparatus and installations for the production of X-rays, not for medical purposes; electric apparatus for commutation; intercommunication apparatus; stills for laboratory experiments; projection apparatus; fire extinguishing apparatus; radiological apparatus for industrial purposes; X-ray apparatus not for medical purposes; blueprint apparatus; flashing lights [luminous signals]; stereoscopic apparatus; telephone apparatus; facsimile machines;

phototelegraphy apparatus; igniting apparatus, electric, for igniting at a distance; acid hydrometers; salinometers; acidimeters for batteries; aerometers; beacons, luminous; battery jars; barometers; anode batteries; galvanic batteries; batteries for lighting; solar batteries; solar panels for the production of electricity; batteries, electric; balances [steelyards]; betatrons; binoculars; biochips; electronic tags for goods; lens hoods; magnetic tape units for computers; computer memory devices; fire hose nozzles; encoded identification bracelets, magnetic; connected bracelets [measuring instruments]; safety tarpaulins; electronic key fobs being remote control apparatus; bullet-proof clothing; signalling buoys; life buoys; marking buoys; directional compasses; vacuum gauges; electrolyzers; variometers; verniers; scales; baby scales; bathroom scales; letter scales; weighbridges; precision balances; scales with body mass analysers; levelling staffs [surveying instruments] / rods [surveying instruments]; camcorders; video baby monitors; video cassettes; video telephones; video screens; viewfinders, photographic; sockets, plugs and other contacts [electric connections] / plugs, sockets and other contacts [electric connections]; micrometer screws for optical instruments; viscosimeters; circuit closers; wavemeters; voltmeters; mechanical signs; signs, luminous; switchboxes [electricity]; current rectifiers; gas testing instruments; gasometers [measuring instruments]; galvanometers; hands-free kits for telephones; heliographic apparatus; hygrometers; hydrometers; weights; peepholes [magnifying lenses] for doors; holograms; plotters; loudspeakers; sounding leads; plumb bobs; range finders; densimeters; densitometers; optical goods; detectors; smoke detectors; infrared detectors; counterfeit [false] coin detectors; joysticks for use with computers, other than for video games;

transparencies [photography]; slide projectors; diaphragms [photography]; dictating machines; dynamometers; light-emitting diodes [LED]; floppy disks; sound recording discs; disks, magnetic; optical discs; circular slide rules; disk drives for computers; juke boxes for computers; DNA chips; electronic interactive whiteboards; electronic notice boards; bullet-proof waistcoats [vests (Am.)]; life jackets; reflective safety vests; identification threads for electric wires; nose clips for divers and swimmers; locks, electric; bells [warning devices]; alarm bells, electric; electric door bells; signal bells; audio interfaces; acoustic conduits; mirrors for inspecting work; road signs, luminous or mechanical; marine depth finders; probes for scientific purposes; buzzers; needles for surveying compasses; needles for record players; measures; pressure measuring apparatus; simulators for the steering and control of vehicles; inverters [electricity]; pressure indicators; temperature indicators; incubators for bacteria culture; measuring instruments; cosmographic instruments; mathematical instruments; levelling instruments; instruments containing eyepieces; surveying instruments; azimuth instruments; interfaces for computers; ionization apparatus not for the treatment of air or water; spark-guards; coaxial cables; fibre [fiber (Am.)] optic cables; cables, electric; calipers; slide calipers; screw-tapping gauges; calorimeters; calculating machines; pocket calculators; decompression chambers; cinematographic cameras; thermal imaging cameras; mouth guards for sports; life-saving capsules for natural disasters; electronic pens [visual display units]; holders for electric coils; identity cards, magnetic; video game cartridges; toner cartridges, unfilled, for printers and photocopiers; memory cards for video game machines; encoded magnetic cards; riding helmets; protective helmets; carriers for dark

plates [photography]; automated teller machines [ATM]; cathodes; choking
 coils [impedance]; spools [photography]; coils, electric; electromagnetic coils;
 cinematographic film, exposed; computer keyboards; solenoid valves
 [electromagnetic switches]; wire connectors [electricity]; encoded key cards;
 electronic book readers; electronic agendas; push buttons for bells; mouse
 pads; magnetic encoders; anti-glare visors; collectors, electric; calibrating
 rings; smart rings; protective suits for aviators; commutators; compact discs
 [audio-video]; compact discs [read-only memory]; comparators; marine
 compasses; computers; laptop computers; tablet computers; notebook
 computers; condensers [capacitors]; contacts, electric; wind socks for
 indicating wind direction; traffic cones; branch boxes [electricity]; distribution
 boxes [electricity]; junction boxes [electricity]; battery boxes; cabinets for
 loudspeakers; diving suits; galena crystals [detectors]; reflecting discs for wear,
 for the prevention of traffic accidents; covers for electric outlets; logs
 [measuring instruments]; lasers, not for medical purposes; lactodensimeters;
 lactometers; vacuum tubes [radio]; flashlights [photography]; darkroom lamps
 [photography]; thermionic tubes; amplifying tubes; head cleaning tapes
 [recording]; magnetic tapes; videotapes; surveying chains; fire escapes; rulers
 [measuring instruments]; square rulers for measuring; slide-rules; contact
 lenses; correcting lenses [optics]; optical lenses; optical condensers; sounding
 lines; electricity conduits; measuring spoons; magnifying glasses [optics];
 thread counters; magnets; decorative magnets; close-up lenses; crash test
 dummies; resuscitation mannequins [teaching apparatus]; mouse [computer
 peripheral]; pressure gauges; security tokens [encryption devices]; divers'
 masks; solderers' helmets; protective masks; respiratory masks, other than for

artificial respiration; materials for electricity mains [wires, cables]; voting machines; money counting and sorting machines; material testing instruments and machines; furniture especially made for laboratories; megaphones; portable media players; diaphragms [acoustics]; diaphragms for scientific apparatus; metal detectors for industrial or military purposes; digital weather stations; metronomes; rules [measuring instruments]; carpenters' rules; dressmakers' measures; mechanisms for coin-operated apparatus; mechanisms for counter-operated apparatus; coin-operated mechanisms for television sets; shutter releases [photography]; micrometers; microprocessors; microscopes; microtomes; microphones; audio mixers; modems; lightning conductors [rods]; monitors [computer hardware]; monitors [computer programs]; selfie sticks [hand-held monopods]; terminals [electricity]; junction sleeves for electric cables; teeth protectors; temperature indicator labels, not for medical purposes; knee-pads for workers; headphones; surveyors' levels; sound recording carriers; magnetic data media; optical data media; electronic sheet music, downloadable; computer software, recorded; sheaths for electric cables; identification sheaths for electric wires; weighing machines; computer hardware; punched card machines for offices; life saving apparatus and equipment; shoes for protection against accidents, irradiation and fire; objectives [lenses] [optics]; lenses for astrophotography; egg-candlers; fire extinguishers; electrified fences; limiters [electricity]; clothing for protection against accidents, irradiation and fire; clothing for protection against fire; asbestos clothing for protection against fire; clothing especially made for laboratories; ozonisers [ozonators]; octants; eyepieces; ohmmeters; wrist rests for use with computers; eyeglass frames; oscillographs; plumb lines; mirrors

[optics]; eyeglasses; sunglasses; goggles for sports; electronic collars to train animals; signalling panels, luminous or mechanical; radio pagers; pince-nez; electronic pocket translators; transmitters [telecommunication]; telephone transmitters; transmitters of electronic signals; switches, electric; periscopes; gloves for divers; gloves for protection against accidents; gloves for protection against X-rays for industrial purposes; asbestos gloves for protection against accidents; furnaces for laboratory use; pipettes; pyrometers; planimeters; plane tables [surveying instruments]; plates for batteries; wafers for integrated circuits; printed circuit boards; compact disc players; cassette players; protective films adapted for computer screens; protective films adapted for smartphones; sound recording strips; X-ray films, exposed; films, exposed; life-saving rafts; laboratory trays; digital signs; semi-conductors; polarimeters; fire pumps; measuring glassware; life belts; fuses; circuit breakers; converters, electric; telerupters; food analysis apparatus; diagnostic apparatus, not for medical purposes; distance recording apparatus; distance measuring apparatus; speed measuring apparatus [photography]; appliances for measuring the thickness of leather; apparatus for measuring the thickness of skins; speed checking apparatus for vehicles; teaching apparatus; time recording apparatus; apparatus and instruments for astronomy; surveying apparatus and instruments; weighing apparatus and instruments; nautical apparatus and instruments; navigational instruments; optical apparatus and instruments; apparatus and instruments for physics; chemistry apparatus and instruments; measuring apparatus; measuring devices, electric; boiler control instruments; meteorological instruments; naval signalling apparatus; observation instruments; navigation apparatus for vehicles [on-board

computers]; satellite navigational apparatus; regulating apparatus, electric; precision measuring apparatus; audio- and video-receivers; prisms [optics]; computer software applications, downloadable; printers for use with computers; hemline markers; retorts' stands; apparatus for changing record player needles; drainers for use in photography; cleaning apparatus for sound recording discs; fire beaters; telescopic sights for firearms; telescopic sights for artillery; test tubes; pressure indicator plugs for valves; magnetic wires; telegraph wires; telephone wires; wires, electric; conductors, electric; copper wire, insulated; fuse wire; computer programmes [programs], recorded; computer game software; computer programs [downloadable software]; computer operating programs, recorded; record players; processors [central processing units]; rods for water diviners; electronic publications, downloadable; distribution consoles [electricity]; control panels [electricity]; radar apparatus; baby monitors; masts for wireless aerials; transmitting sets [telecommunication]; radios; vehicle radios; sprinkler systems for fire protection; frames for photographic transparencies; screens for photoengraving; flowmeters; walkie-talkies; voltage surge protectors; voltage regulators for vehicles; stage lighting regulators; light dimmers [regulators], electric; speed regulators for record players; cell switches [electricity]; washing trays [photography]; marking gauges [joinery]; T-squares for measuring; time switches, automatic; relays, electric; safety restraints, other than for vehicle seats and sports equipment; X-ray photographs, other than for medical purposes; rheostats; respirators for filtering air; retorts; refractometers; refractors; grids for batteries; humanoid robots with artificial intelligence; speaking tubes; horns for loudspeakers; subwoofers; saccharometers; optical fibers [fibres] [light conducting

filaments]; traffic-light apparatus [signalling devices]; dog whistles; signalling whistles; sextants; inductors [electricity]; safety nets; nets for protection against accidents; fire alarms; signals, luminous or mechanical; sirens; electronic access control systems for interlocking doors; scanners [data processing equipment]; integrated circuit cards [smart cards]; smartglasses; smartphones; smartwatches; connections for electric lines; couplings, electric; sonars; sound locating instruments; lighting ballasts; resistances, electric; spectrograph apparatus; spectroscopes; speed indicators; alcoholmeters; satellites for scientific purposes; protection devices for personal use against accidents; audiovisual teaching apparatus; charging stations for electric vehicles; radiotelegraphy sets; radiotelephony sets; spectacle lenses; anti-glare glasses; optical glass; personal stereos; stereoscopes; stands for photographic apparatus; stroboscopes; fire boats; sulfimeters; bags adapted for laptops; drying racks [photography]; spherometers; integrated circuits; printed circuits; counters; parking meters; kilometer recorders for vehicles; revolution counters; abacuses; egg timers [sandglasses]; taximeters; ear plugs for divers; tachometers; television apparatus; telegraphs [apparatus]; telescopes; teleprompters; teleprinters; cordless telephones; cellular phones / mobile telephones / cell phones; theodolites; interactive touch screen terminals; thermo-hygrometers; thermometers, not for medical purposes; thermostats; thermostats for vehicles; crucibles [laboratory]; tone arms for record players; totalizers; transistors [electronic]; transponders; protractors [measuring instruments]; step-up transformers; transformers [electricity]; vehicle breakdown warning triangles; triodes; starter cables for motors; discharge tubes, electric, other than for lighting; capillary tubes; neon signs; Pitot tubes;

X-ray tubes not for medical purposes; telephone receivers; squares for measuring; gauges; quantity indicators; automatic indicators of low pressure in vehicle tires [tyres]; gasoline gauges; water level indicators; electric loss indicators; light-emitting electronic pointers; slope indicators; levels [instruments for determining the horizontal]; mercury levels; spirit levels; urinometers; amplifiers; particle accelerators; electric installations for the remote control of industrial operations; steering apparatus, automatic, for vehicles; balancing apparatus; video recorders; sound reproduction apparatus; invoicing machines; tape recorders; protection devices against X-rays, not for medical purposes; railway traffic safety appliances; data processing apparatus; oxygen transvasing apparatus; theft prevention installations, electric; film cutting apparatus; drying apparatus for photographic prints; optical character readers; centering apparatus for photographic transparencies; dosage dispensers; battery chargers; chargers for electric batteries; chargers for electronic cigarettes; acoustic alarms; sounding apparatus and machines; editing appliances for cinematographic films; cathodic anti-corrosion apparatus; couplers [data processing equipment]; wearable activity trackers; anti-theft warning apparatus; computer peripheral devices; anti-interference devices [electricity]; demagnetizing apparatus for magnetic tapes; acoustic couplers; alarms; fog signals, non-explosive; whistle alarms; adding machines; readers [data processing equipment]; bar code readers; heat regulating apparatus; photocopiers [photographic, electrostatic, thermic]; electric and electronic effects units for musical instruments; downloadable ring tones for mobile phones; downloadable image files; downloadable music files; animated cartoons; filters for respiratory masks; filters for ultraviolet rays, for

photography; USB flash drives; magic lanterns; signal lanterns; optical lamps; cameras [photography]; glazing apparatus for photographic prints; shutters [photography]; darkrooms [photography]; photometers; flash-bulbs [photography]; digital photo frames; enlarging apparatus [photography]; photovoltaic cells; containers for contact lenses; eyeglass cases; containers for microscope slides; cases for smartphones; cases especially made for photographic apparatus and instruments; chromatography apparatus for laboratory use; chronographs [time recording apparatus]; laboratory centrifuges; eyeglass chains; cyclotrons; compasses for measuring; frequency meters; time clocks [time recording devices]; Petri dishes; sleeves for laptops; covers for personal digital assistants [PDAs]; covers for tablet computers; covers for smartphones; fire blankets; chips [integrated circuits]; jigs [measuring instruments]; pedometers; meteorological balloons; electrified rails for mounting spot lights; asbestos screens for firemen; fire hose; virtual reality headsets; protective helmets for sports; head guards for sports; cell phone straps; eyeglass cords; tripods for cameras; switchboards; distribution boards [electricity]; equalizers [audio apparatus]; workmen's protective face-shields; projection screens; radiology screens for industrial purposes; fluorescent screens; exposure meters [light meters]; ducts [electricity]; galvanic cells; epidiascopes; ergometers; armatures [electricity]; black boxes [data recorders]; screens [photography]."

- **na classe 11** , *“Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes; lamp shades; steam accumulators; heat accumulators; defrosters for vehicles; disinfectant apparatus for medical purposes; distillation apparatus; desiccating apparatus; hydromassage bath apparatus; disinfectant apparatus; air deodorising apparatus; tanning apparatus [sun beds]; ionization apparatus for the treatment of air or water; coffee roasters; beverage cooling apparatus; hand drying apparatus for washrooms; fruit roasters; water purifying apparatus and machines; refrigerating apparatus and machines; drying apparatus and installations; freezers; drying apparatus; structural plates for ovens; coolers for furnaces; expansion tanks for central heating installations; flushing tanks; refining towers for distillation; bidets; boilers, other than parts of machines; bath tubs; spa baths [vessels]; bath tubs for sitz baths; waffle irons, electric; fans [air-conditioning]; fans [parts of air-conditioning installations]; electric fans for personal use; roasting spits; refrigerating display cabinets; heated display cabinets; water heaters; water heaters [apparatus]; water flushing installations; air reheaters; extractor hoods for kitchens; gas condensers, other than parts of machines; acetylene generators; hydrants; fairy lights for festive decoration; burners; acetylene burners; petrol burners; gas burners; burners for lamps; germicidal burners; incandescent burners; oxyhydrogen burners; laboratory burners; oil burners; alcohol burners; hot water bottles; footwarmers, electric or non-electric; bed warmers; pocket warmers; warming pans; grills [cooking appliances]; lampshade holders; stills; showers; refrigerating containers; gas lighters; lighters; friction lighters for igniting gas; chimney blowers; coils [parts of distilling, heating or cooling installations];*

furnace ash boxes; evaporators; shower cubicles [enclosures (Am.)]; Turkish bath cabinets, portable; heating apparatus; cool boxes, electric; refrigerating chambers; fireplaces, domestic; chimney flues; pressure cooking saucepans, electric; air valves for steam heating installations; level controlling valves in tanks; thermostatic valves [parts of heating installations]; electrically heated carpets; light bulbs; light bulbs, electric; solar thermal collectors [heating]; distillation columns; furnace grates; ventilation hoods; ventilation hoods for laboratories; lamp globes; air-conditioning apparatus; air conditioners for vehicles; gas boilers; laundry room boilers; heating boilers; coffee machines, electric; taps [cocks, spigots] [faucets (Am.)] for pipes; taps [faucets]; mixer taps for water pipes; forges, portable; lava rocks for use in barbecue grills; electric lights for Christmas trees; acetylene flares; safety lamps; gas lamps; curling lamps; germicidal lamps for purifying air; lamps for directional signals of automobiles; light bulbs for directional signals for vehicles; arc lamps; laboratory lamps; oil lamps; ultraviolet ray lamps, not for medical purposes; miners' lamps; electric lamps; chandeliers; barbecues; bread baking machines; watering machines for agricultural purposes; multicookers; footmuffs, electrically heated; heaters for baths; heaters for heating irons; immersion heaters; brackets for gas burners; anti-splash tap nozzles; heat pumps; filaments for electric lamps; magnesium filaments for lighting; heating filaments, electric; luminous house numbers; socks, electrically heated; heating apparatus for defrosting vehicle windows; hot air bath fittings; bath fittings; loading apparatus for furnaces; kiln furniture [supports]; sauna bath installations; refrigerating appliances and installations; blankets, electric, not for medical purposes; fabric steamers; lamp reflectors; vehicle reflectors;

hearths; food steamers, electric; steam boilers, other than parts of machines; pasteurisers; lamp mantles; sockets for electric lights; coffee percolators, electric; bakers' ovens; stoves [heating apparatus]; hot air ovens; kitchen ranges [ovens]; microwave ovens [cooking apparatus]; microwave ovens for industrial purposes; incinerators; kilns; solar furnaces; dental ovens; furnaces, other than for laboratory use; urinals [sanitary fixtures]; feeding apparatus for heating boilers; heating plates; cookers; hot plates; wine cellars, electric; heaters, electric, for feeding bottles; aquarium heaters; aquarium lights; heating cushions [pads], electric, not for medical purposes; clean chambers [sanitary installations]; tortilla presses, electric; water intake apparatus; deodorising apparatus, not for personal use; apparatus for dehydrating food waste; fumigation apparatus, not for medical purposes; gas scrubbing apparatus; oil-scrubbing apparatus; glue-heating appliances; forage drying apparatus; water filtering apparatus; air purifying apparatus and machines; ice machines and apparatus; cooling appliances and installations; cooking apparatus and installations; lighting apparatus and installations; sanitary apparatus and installations; cooking rings; lighting apparatus for vehicles; light-emitting diodes [LED] lighting apparatus; heating apparatus for solid, liquid or gaseous fuels; hot air apparatus; heating apparatus, electric; steam facial apparatus [saunas]; safety accessories for water or gas apparatus and pipes; regulating and safety accessories for gas apparatus; regulating accessories for water or gas apparatus and pipes; regulating and safety accessories for water apparatus; regulating and safety accessories for gas pipes; anti-glare devices for vehicles [lamp fittings]; roasting jacks; plate warmers; electric appliances for making yogurt; anti-dazzle devices for automobiles [lamp fittings]; rotisseries; radiator

caps; searchlights; diving lights; washers for water taps; heat guns; radiators [heating]; central heating radiators; radiators, electric; sinks; disinfectant dispensers for toilets; light diffusers; nuclear reactors; heat regenerators; pressure water tanks; roasters; lamps; street lamps; ceiling lights; toilet seats; lighting installations for air vehicles; pressure cookers, electric; gas scrubbers [parts of gas installations]; lamp glasses; sterilizers; water sterilizers; air sterilisers; air dryers; laundry dryers, electric; hair dryers; malt roasters; tobacco roasters; heat exchangers, other than parts of machines; bread toasters; discharge tubes, electric, for lighting; lamp chimneys; luminous tubes for lighting; pipes [parts of sanitary installations]; flues for heating boilers; boiler pipes [tubes] for heating installations; toilets [water-closets]; toilets, portable; humidifiers for central heating radiators; wash-hand basins [parts of sanitary installations]; toilet bowls; water conduits installations; bath installations; air-conditioning installations; desalination plants; installations for processing nuclear fuel and nuclear moderating material; watering installations, automatic; cooling installations for water; cooling installations for liquids; milk cooling installations; cooling installations for tobacco; water purification installations; purification installations for sewage; steam generating installations; water distribution installations; air filtering installations; swimming pool chlorinating apparatus; ventilation [air-conditioning] installations and apparatus; ventilation [air-conditioning] installations for vehicles; water softening apparatus and installations; cooling installations and machines; heating installations; heaters for vehicles; hot water heating installations; polymerisation installations; water supply installations; flare stacks for use in the oil industry; ash conveyor installations, automatic;

whirlpool-jet apparatus; air cooling apparatus; aquarium filtration apparatus; cooking utensils, electric; flaming torches; headlights for automobiles; vehicle headlights; filters for air conditioning; filters for drinking water; lights for automobiles; bicycle lights; motorcycle lights; lights for vehicles; electric torches; lanterns for lighting; Chinese lanterns; fountains; ornamental fountains; chocolate fountains, electric; deep fryers, electric; fittings, shaped, for ovens; oven fittings made of fireclay; bread-making machines; refrigerators; chromatography apparatus for industrial purposes; kettles, electric; dampers [heating]; book sterilization apparatus; refrigerating cabinets; carbon for arc lamps; heating elements."

Sucedede que,

9.

A Reclamante é, por sua vez, legítima titular, entre outros, dos seguintes registros de marcas:

- **AIWA**, Marca Nacional nº 142.057, requerida a 20 de Abril de 1967 e concedida a 10 de Janeiro de 1969, que assinala, na classe 9ª, "microfones, gira-discos, gravadores de fita, aparelhos de rádio e aparelhos de televisão"

e da

aiwa

- Marca Nacional nº 278.612, requerida a 28 de Novembro de 1991 e concedida a 25 de Agosto de 1993, que assinala, na classe 9ª, *“aparelhos e instrumentos científicos, náuticos, geodésicos, eléctricos, fotográficos, cinematográficos, ópticos, de pesagem, de medida, de sinalização, de verificação (inspecção), de socorro (salvamento) e de ensino; aparelhos para o registo, a transmissão, a reprodução do som ou de imagem; suportes de registo magnético, discos acústicos; distribuidores automáticos e mecanismos para aparelhos de pré-pagamento; caixas registadoras, máquinas de calcular, equipamento para o tratamento de informação e computadores e extintores”*

10.

A Reclamante foi legalmente constituída a 11 de Abril de 2017 no seu país de origem, que é o Japão, tendo como denominação social **AIWA CO., LTD.** conforme se comprova pela certidão de registo comercial e da respectiva tradução parcial que se juntam como documentos nºs 1 e 2, cujo teor se dá por integralmente reproduzidos para todos os efeitos legais.

III - O Direito

a) Da Prioridade das Marcas da Reclamante

11.

Considerando que a prioridade de uma marca é aferida pela data em que o pedido tiver sido apresentado (artigo 11º, nº1, do CPI), é indiscutível que as marcas das Reclamante gozam de prioridade face à marca de registo internacional *sub judice*.

Com efeito,

12.

A prioridade das marcas da Reclamante é indiscutível, visto que a marca de registo internacional *sub judice* se encontra registada desde 23 de Janeiro de 2018 na Organização Mundial da Propriedade Intelectual e aquelas foram pedidas e concedidas anteriormente a essa data.

b) Da Identidade e Afinidade dos Produtos

13.

Os produtos que a marca registanda se destina a assinalar são em parte idênticos e em parte complementares, conexos e, por conseguinte, afins dos produtos assinalados pelas marcas prioritárias da Reclamante

14.

De igual modo, também se estabelece um elo de complementaridade e de consequente afinidade entre os produtos a distinguir pela marca *sub judice* e o objecto social da Reclamante, em particular, o “*design, produção, reparação, distribuição, importação e*

exportação de equipamento de comunicações, equipamentos eletromecânicos e equipamentos electrónicos mecânicos”.

15.

Preliminarmente, cabe referir que a Lei não contém uma definição legal do que sejam produtos ou serviços idênticos ou afins e, por isso, fica cometido ao intérprete e aplicador do Direito a tarefa de, casuisticamente, indagar a existência, ou não de identidade e/ou afinidade.

16.

Não obstante, decorre lapidarmente do disposto no artigo 245º, nº 2, do CPI, a irrelevância, para esse efeito da inclusão de produtos ou serviços na mesma classe da Classificação Internacional de Nice.

17.

A fim de auxiliar o intérprete e aplicador do Direito, a Doutrina e Jurisprudência têm apontado diversos critérios, sendo sobremaneira referidos a natureza, fins, destino, a acessoriedade, a complementaridade, o carácter concorrencial dos produtos ou serviços e ainda os canais de comercialização e distribuição.

18.

Parafraseando Couto Gonçalves, o exercício do apuramento da identidade e/ou afinidade dos produtos não pode ser desligado da função primordial da marca, a distintiva, pelo que o que está em causa é sempre a indagação da existência, ou não de identidade e/ou afinidade de produtos ou serviços *marcados*, no sentido se que,

aplicando-se-lhes a mesma marca, lhes possa razoavelmente ser atribuída a mesma origem empresarial,

19.

Socorrendo-nos das palavras de Nogueira de Sérens, dir-se-á que «... *a afinidade ou similitude entre os produtos ou serviços afirmar-se-á sempre que, pela sua significação económica, qualidade e modo de utilização, especialmente do ponto de vista dos seus locais normais de produção e de venda, esses produtos ou serviços apresentem 'pontos de contacto' tão estritos que, aplicando-se-lhes a mesma marca, o consumidor médio os poderia razoavelmente atribuir à mesma fonte produtiva²*».

20.

No presente caso existe uma relação de identidade, complementaridade e, por conseguinte, afinidade entre os produtos que a marca registanda visa assinalar na classe 9ª e os produtos assinalados nessa classe pelas marcas prioritárias da Reclamante.

21.

A este respeito deve observar-se que os produtos assinalados pelas marcas prioritárias da Reclamante estão incluídos na lista dos produtos a distinguir pela marca *sub judice* na classe 9ª.

² Nogueira de Sérens, «A Vulgarização da Marca na Directiva nº 89/104/CEE, de 21 de Dezembro de 1988 (id est, no nosso direito futuro)», *in* Estudos em Homenagem ao Prof. Doutor Ferrer Correia, vol. IV, Coimbra 1997, p. 41

22.

De facto, as marcas em cotejo assinalam, todas elas, identicamente ou em sinonímia, na classe 9ª, “*aparelhos e instrumentos científicos, náuticos, geodésicos, eléctricos, fotográficos, cinematográficos, ópticos, de pesagem, de medida, de sinalização, de verificação (inspecção), de socorro (salvamento) e de ensino; aparelhos para o registo, a transmissão, a reprodução do som ou de imagem; suportes de registo magnético*”

23.

Esses produtos têm a mesma natureza, fins e aplicabilidade, apresentando-se concorrencialmente no mercado e destinando-se à satisfação de necessidades comuns de procura conjunta.

24.

Por outro lado, também se estabelece uma relação de complementaridade, acessoriedade e, por conseguinte, afinidade entre os produtos que a marca *sub judice* visa assinalar e a actividade da Reclamante, *maxime* a que respeita ao “*Design, produção, reparação, distribuição, importação e exportação de equipamento de comunicações, equipamentos eletromecânicos e equipamentos electrónicos mecânicos*”

25.

Na verdade, na vasta lista de produtos a assinalar pela marca de registo internacional *sub judice* encontram-se diversos aparelhos de comunicações (vg *computers (...)* *electric apparatus for commutation; intercommunication apparatus (...)* *telephone apparatus; facsimile machines; phototelegraphy apparatus (...)* *computers; laptop*

computers; tablet computers; notebook computers (...)telegraphs [apparatus]; (...) cellular phones / mobile telephones / cell phones(...)video telephones t,etc.

26.

Além disso, no rol dos produtos a distinguir pela marca reclamada também se encontram alguns exemplos de equipamentos electromecânicos ou ainda equipamentos nos quais os dispositivos electromecânicos são indispensáveis para o seu funcionamento (vg *Apparatus for (...), refrigerating, drying, ventilatin; (...)hair dryers(...)refrigerating apparatus and machines, etc*).

27.

Acresce que são produtos que podem ter a mesma origem empresarial e comungar os mesmos canais de oferta.

28.

Ora, se por mera hipótese académica de raciocínio fosse concedida protecção em Portugal à marca de registo internacional *sub judice*, o consumidor seria induzido em erro ou confusão quanto à origem empresarial dos produtos assinalados.

29.

Com efeito, o consumidor imputaria à Reclamante a origem empresarial dos produtos assinalados pela marca *sub judice*, supondo (em erro) que estaria perante uma nova marca desta ou, ainda, de uma variante das marcas anteriores.

30.

Mesmo que se admitisse, no que se não concede, que o consumidor não atribuisse à Reclamante a origem empresarial dos produtos assinalados pela marca registanda, ainda assim, poderia supor que tais produtos proviriam de uma empresa que tivesse algum tipo de ligação económica ou jurídica com a Reclamante, no fundo, que Reclamante e Reclamada fossem empresas do mesmo grupo ou empresas ligadas económica ou juridicamente entre si, o que se nega por não corresponder à verdade.

c) Da Semelhança entre os Sinais

31.

Através da comparação das marcas em cotejo facilmente se conclui que estas têm flagrantes e ostensivas semelhanças entre si, sendo susceptíveis de induzir o consumidor em situações de erro ou confusão bem como no risco de associação quanto à origem empresarial de tais marcas.

32.

Na verdade, como se constata pela análise comparativa dos elementos nominativos das marcas em disputa

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elas são **iguais!**

33.

Com efeito, a marca registanda reproduz na íntegra as marcas prioritárias da Reclamante, o que é dizer que estas estão totalmente contidas no sinal *sub judice*.

34.

O facto de as marcas em confronto serem marcas mistas não altera em nada o juízo da existência de semelhança e confundibilidade entre os sinais.

35.

Na verdade, apesar de serem marcas mistas, os sinais em disputa têm carácter predominantemente nominativo, na medida em que consistem na estilização da palavra **AIWA**, respectivamente, em letras representando um grafismo especial e em letras com caracteres maciços.

36.

Além disso, é pacífica a prevalência dos elementos nominativos nas marcas complexas, formadas por elementos nominativos e figurativos por os primeiros serem os mais idóneos a ser retidos e conservados na memória do consumidor.

37.

Com efeito, é pelo *nomen* que o consumidor identifica e se refere a uma marca. E, como ressalta à evidência, o consumidor que pretendesse adquirir produtos das marcas cotejadas, identificá-los-ia, e identificá-los-á, exactamente da mesma maneira, **AIWA**,

38.

Seria, pois, inevitável, a indução do consumidor em erro ou confusão.

39.

Na verdade, nos termos preditos, o consumidor julgaria que a marca registanda seria ou uma variante das marcas anteriores da Reclamante, *rectius*, uma versão “actualizada” destas, ou mesmo uma nova marca da Reclamante ou, ainda, eventualmente, uma marca proveniente de uma empresa que fizesse parte do mesmo grupo da Reclamante ou que com ela tivesse algum tipo de ligação económica ou jurídica, o que volta a negar-se por não corresponder, manifestamente, à verdade.

40.

Acresce ainda que a marca registanda reproduz totalmente o elemento característico da denominação social da Reclamante AIWA CO.,LTD, sendo aqui aplicáveis com as necessárias adaptações as considerações vertidas nos artigos anteriores acerca da comparação entre os sinais.

Ora,

41.

A marca é o sinal distintivo de comércio destinado a individualizar produtos e serviços de uma empresa dos de outras empresas (artigo 222º, nº1, do CPI), daí que se afirme que a principal função da marca é a distintiva.

42.

A função distintiva da marca ficaria inelutavelmente comprometida se existissem outras marcas ou outros sinais distintivos de comércio para produtos ou serviços idênticos ou afins que com ela se confundissem.

43.

Por essa razão prevê imperativamente a Lei como fundamento de recusa de registo de marca a reprodução ou imitação, no todo ou em parte, de marca anteriormente registada por outrem para produtos ou serviços idênticos ou afins, que possa induzir em erro ou confusão o consumidor ou que compreenda o risco de associação com a marca registada (artigo 239º, nº1, alínea a) *ex vi* artigo 254º do CPI).

44.

Também por essa razão o artigo 239º, nº2, alínea a) *ex vi* artigo 254º do CPI determina como fundamento de recusa, dependente de invocação, a reprodução ou imitação de firma, de denominação social, ou apenas parte característica das mesmas, que não pertençam ao requerente, ou que o mesmo não esteja autorizado a usar, se for susceptível de induzir o consumidor em erro ou confusão.

45.

Acresce que nos termos do artigo 8º da Convenção da União de Paris, o nome comercial será protegido em todos os país da União, sem obrigação de depósito ou registo, façam ou não parte de marca de fábrica ou de comércio.

46.

Uma marca é considerada imitação de outra quando, cumulativamente, nos termos do disposto no artigo 245º, nº1, do CPI, além da prioridade, se verificarem os seguintes requisitos:

- Sejam ambas destinadas a assinalar produtos ou serviços idênticos ou afins;
- Tenham tal semelhança gráfica, figurativa, fonética ou outra que induza facilmente o consumidor em erro ou confusão, ou que compreenda um risco de associação com marca anteriormente registada, de forma que o consumidor não as possa distinguir senão depois de exame atento ou confronto.

47.

Atendendo a tudo quanto antecede, forçoso é concluir-se que se encontram preenchidos **todos** os requisitos cumulativos do conceito legal de imitação, razão pela qual deverá ser **RECUSADA** a protecção em Portugal da marca de registo internacional nº 1420001

aiwa com base na verificação dos fundamentos de recusa previstos nos artigos 239º, nº1, alínea a) e 239º, nº2, alínea a) do CPI *ex vi* artigo 254º do CPI e do artigo 8º da Convenção da União de Paris.

d) Possibilidade de Concorrência Desleal

48.

Mas também com fundamento no disposto na alínea e) do artigo 239º, nº1, *ex vi* artigo 254º do CPI recusada a protecção em Portugal da marca de registo internacional *sub judice*.

49.

Segundo aquela norma o reconhecimento de que o requerente pretende fazer concorrência desleal, ou o reconhecimento de que esta é possível, independentemente de intenção, é igualmente fundamento de recusa de registo de marca.

50.

São actos de concorrência desleal, nomeadamente, os actos susceptíveis de criar confusão com a empresa, o estabelecimento, os produtos ou os serviços dos concorrentes qualquer que seja o meio empregado (artigo 317º, nº1, alínea. a) do CPI).

51.

Para que se verifique concorrência desleal não é necessária a existência de dolo, basta que a concorrência desleal seja possível independentemente da intenção do agente, isto é, que esse resultado seja objectivamente concebível e provável, atenta a manifesta semelhanças entre as marcas em confronto e a identidade ou afinidade entre os produtos e/ou serviços que tais marcas se destinam a assinalar.

52.

Conforme salienta o Professor Oliveira Ascensão, a concorrência desleal pode não depender da verificação de elementos do tipo criminal, tratando-se antes de uma contrariedade objectiva aos padrões de lealdade na concorrência.

53.

A própria Lei diz que é dispensado qualquer tipo de intenção maléfica, bastando que a concorrência desleal seja possível independentemente da intenção do agente.

54.

No presente caso, tendo sido demonstrada a existência de um elo de identidade, complementaridade e, por conseguinte, afinidade entre os produtos bem como as inegáveis e evidentes semelhanças entre os sinais, forçoso se torna concluir que se fosse efectivamente concedida protecção em Portugal à marca de registo internacional *sub judice*, estar-se-ia a possibilitar, mesmo que não existisse intenção da Reclamada a prática de actos de concorrência desleal impeditivos de registo nos termos da alínea e) do artigo 239º, nº1, do CPI *ex vi* artigo 254º do CPI.

Nestes termos e nos mais de Direito, que doutamente serão supridos deve a presente Reclamação ser julgada procedente e, em consequência, recusada a protecção em Portugal à marca de registo internacional nº 1420001

aiwa

Junta: 2 documentos

Lisboa, 10 de Janeiro de 2019

O AGENTE OFICIAL DA PROPRIEDADE INDUSTRIAL

[Assinatura
Qualificada] António
Infante da Câmara
Trigueiros de Aragão

Assinado de forma digital por [Assinatura
Qualificada] António Infante da Câmara
Trigueiros de Aragão
DN: cn=PT, o=RCF - PROTECTING
INNOVATION, S.A., ou=Certificado para
pessoa singular - Assinatura Qualificada,
sn=Infante da Câmara Trigueiros de
Aragão, givenName=António,
serialNumber=DCPT-06940260, cn=
[Assinatura Qualificada] António Infante
da Câmara Trigueiros de Aragão
Dados: 2019.01.10 12:06:09 Z

履歴事項全部証明書

東京都品川区東五反田一丁目6番3号
アイワ株式会社

会社法人等番号	0107-01-034037	
商号	アイワ株式会社	
本店	東京都品川区東五反田一丁目6番3号	
公告をする方法	官報に掲載してする。	
会社成立の年月日	平成29年4月11日	
目的	(1) 通信機器、電気機械器具及び電子機械器具の設計、製造、修理、販売及び輸出入 (2) 光学機械器具及び精密機械器具の設計、製造、修理、販売及び輸出入 (3) 医療用具、医療用機械器具及び衛生用具、衛生用機械器具の設計、製造、修理、販売及び輸出入 (4) コンピュータソフトウェアの開発、販売及び輸出入 (5) 前各号の製品、物品及びコンピュータソフトウェアに関する商標その他の知的財産権の管理及び使用許諾 (6) 前各号に附帯又は関連する一切の業務	
発行可能株式総数	100万株	
発行済株式の総数並びに種類及び数	発行済株式の総数 2000株	
	発行済株式の総数 1万2000株	平成30年 3月 6日変更 ----- 平成30年 3月12日登記
資本金の額	金2000万円	
	金7000万円	平成30年 3月 6日変更 ----- 平成30年 3月12日登記
株式の譲渡制限に関する規定	当会社の株式を譲渡により取得するには、株主総会の承認を受けなければならない。	
役員に関する事項	取締役 三井知則	

東京都品川区東五反田一丁目6番3号
アイワ株式会社

	取締役 中 村 和 臣	
	取締役 蒲 生 雅 一	平成29年 9月 1日就任
		平成29年 9月 27日登記
	取締役 小 牟 田 啓 博	平成29年 9月 1日就任
		平成29年 9月 27日登記
	東京都八王子市大塚640番地8 代表取締役 三 井 知 則	
	東京都新宿区西落合四丁目7番4号 代表取締役 蒲 生 雅 一	平成29年 9月 1日就任
		平成29年 9月 27日登記
登記記録に関する 事項	設立 平成29年 4月 11日登記	

これは登記簿に記録されている閉鎖されていない事項の全部であることを証明
した書面である。

(東京法務局品川出張所管轄)

平成30年 6月 1日

東京法務局新宿出張所

登記官

関 孝 志



整理番号 へ346272

* 下線のあるものは抹消事項であることを示す。

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(Translation)
Certificate of Full Registry Records

1-6-3, Higashi-gotanda, Shinagawa-ku, Tokyo

AIWA CO., LTD.

Corporate Number	0107-01-034037	
Corporate Name	AIWA CO., LTD.	
Head Office	1-6-3, Higashi-gotanda, Shinagawa-ku, Tokyo	
Methods of Advertising	Through official gazettes	
Date of Establishment	April 11th, 2017	
Objectives	(1) Design, production, repair, distribution, import and export of communication equipments, electric mechanical equipments and electronic mechanical equipments (2) Design, production, repair, distribution, import and export of optical mechanical equipments and precision mechanical equipments (3) Design, production, repair, distribution, import and export of medical equipments, medical mechanical equipments, sanitary equipments and sanitary mechanical equipments (4) Development, distribution, import and export of computer software (5) Management and license of trademarks and other intellectual property right concerning to the products, materials and computer software in the items above (6) All businesses incidental or related to the items above	
Total Number of Issuable Shares	1,000,000 shares	
Total Number, Type, and Number of Issued Shares	Total Number of Issued Shares <u>2,000 shares</u>	
	Total Number of Issued Shares 12,000 shares	Changed on March 6th, 2018
		Registered on March 12th, 2018
Capital	<u>20,000,000 yen</u>	
	70,000,000 yen	Changed on March 6th, 2018
		Registered on March 12th, 2018
Provisions Concerning Restrictions on Transfers of Shares	Stockholders or stockacquirers are required to have approval from the board of directors when the company's shares are acquired by transfer.	
Items Related to Directors	Director Tomonori Mitsui	
	Director Kazuomi Nakamura	
	Director Masakazu Gamo	Appointed on September 1st, 2018 Registered on September 27th, 2018
	Director Yoshihiro Komuta	Appointed on September 1st, 2018 Registered on September 27th, 2018

	640-8, Otsuka, Hachio-ji, Tokyo	
	Representative and Chier Director Tomonori Mitsui	
	4-7-4, Nishiochiai, Shinjuku-ku, Tokyo	Appointed on September 1st, 2018
	Representative and Chier Director Masakazu Gamo	Registerd on September 27th, 2018
Item Related to Registered Records	Establishment	Registerd on April 11th, 2017

This certifies that all valid matters that are registered in the registry are contained.

(Shinagawa Branch of Tokyo Local Legal Affairs Bureau)

June 1st, 2018

Shinjuku Branch of Tokyo Local Legal Affairs Bureau

Registrar

Koji Seki [seal]

File No. ^346272

*Underlined parts are issues expunged.

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Tradução parcial

(Tradução)

Certificado Integral de Averbamentos no Registo Comercial

1-6-3, Higashi-gotanda, Shinagawa-ku, Tóquio

No. de Registo da Sociedade	0107-01-034037
Denominação Social	AIWA CO., LTD.
Sede	1-6-3, Higashi-gotanda, Shinagawa-ku, Tóquio
Método de aviso público	Através de boletins oficiais
Data de constituição	11 de Abril de 2017
Objetivos	(1) Design, produção, reparação, distribuição, importação e exportação de equipamento de comunicações, equipamentos eletromecânicos e equipamentos eletrónicos mecânicos (2) Design, produção, reparação, distribuição, importação e exportação de aparelhos óticos mecânicos e aparelhos de precisão mecânicos (3) Design, produção, reparação, distribuição, importação e exportação de aparelhos médicos, aparelhos médicos mecânicos, aparelhos sanitários e aparelhos sanitários mecânicos (4) Desenvolvimento, distribuição, importação e exportação de software (5) Gestão e licenciamento de marcas e de outros direitos de propriedade intelectual relativos a produtos, materiais e software dos artigos acima (6) Todos os negócios inerentes ou relativos aos artigos acima

(...)

O presente certifica que estão incluídos todos os atos em vigor inscritos no Registo.

(Sucursal de Shinagawa do Departamento de Assuntos Jurídicos de Tóquio)

1 de Junho de 2018

Sucursal de Shinjuku do Departamento de Assuntos Jurídicos de Tóquio

O Conservador

Koji Seki [selo]

Número de registo 346272

*O sublinhado indica que a inscrição foi cancelada.