

PROVISIONAL REFUSAL OF PROTECTION - PRELIMINARNO ODBIJANJE ZAŠTITE

According to Rule 17 of the Common Regulations under the Madrid Agreement and Protocol / Sukladno Pravilu 17. Zajedničkog pravilnika
uz Madridski sporazum i Protokol

Our reference: 910-08/19-010/0031 559-04/3-19-005/GDŽ	
I Office making the notification / Nacionalni ured koji je odbio zaštitu:	 State Intellectual Property Office of the Republic of Croatia / Državni zavod za intelektualno vlasništvo Republike Hrvatske Ulica grada Vukovara 78, 10000 Zagreb (Croatia), tel.: +385 1 6106-100, 6106-109, fax.: +385 1 6112-017
II Number of the international registration / Broj međunarodne registracije:	144 6375
III Name and the address of the holder / Ime i adresa nositelja:	Lidl Stiftung & Co. KG Stiftsbergstraße 1 74172 Neckarsulm Germany (DE)
IV Provisional refusal based on opposition / Privremeno odbijanje na temelju prigovora	
V Grounds for refusal (see the text in column X) / Razlozi odbijanja (vidjeti tekst u rubrici X)	
VI Corresponding essential provisions of the applicable law (see the text in column XI) / Odgovarajuće bitne odredbe nacionalnog zakona koji se primjenjuje (vidjeti tekst u rubrici XI): Art. 10 para. 1 point 2	
VII Scope of the provisional refusal / Opseg privremenog odbijanja ☒ Provisional refusal for all the goods / Odbijanje za sve proizvode ☐ Provisional refusal for some of the goods and/or services / Odbijanje za neke od proizvoda i/ili usluga	
VIII Information relating to subsequent procedure / Obavijesti o daljnjem tijeku postupka: The holder of the international trademark registration may file his observations on the provisional refusal to the State Intellectual Property Office only through the intermediary of a representative established in the Republic of Croatia. The time limit for filing the power of attorney shall be 4 months, counting from the date of the notification of refusal, or up to 16 September 2019. If the power of attorney is not filed up to the mentioned date, the requested registration of the trademark shall be refused within the limits of the requests referred to in the opposition. If the power of attorney is filed within the time limit as prescribed, the Office shall forward the opposition with an invitation for observations to be filed within 60 days upon its receipt. Nositelj međunarodne registracije žiga može se očitovati na privremeno odbijanje pri Državnom zavodu za intelektualno vlasništvo Republike Hrvatske isključivo putem ovlaštenog domaćeg opunomoćenika koji mora podnijeti punomoć u roku od 4 mjeseca računajući od datuma obavijesti o odbijanju odnosno do 16. rujna 2019. Zatražena registracija odbija se u granicama zahtjeva navedenih u prigovoru ako se punomoć ne dostavi do navedenog datuma. Ako je punomoć podnesena u propisanom roku, Zavod proslijeđuje prigovor s pozivom na očitovanje u roku od 60 dana od dana njegova primitka.	
IX	16/5/2019 Date of the notification of provisional refusal / Datum obavijesti o privremenom odbijanju  Signature of official seal / Potpis ili službeni pečat

TD2582

X

On 30 April 2019, the opponent FATTORIA LA VIALLA DI GIANNI, ANTONIO E BANDINO LO FRANCO - SOCIETA' AGRICOLA SEMPLICE, Via di Meliciano, 26, I-52100 AREZZO, (IT), represented by PETOŠEVIĆ d.o.o., Ulica Josipa Račića 2, HR-10000 Zagreb, Croatia, filed an opposition to the international trademark registration No. 144 6375 in the Republic of Croatia for all the goods, based on the earlier European Union trademark registration No. W01024989 and European Union trademark registration No. W01036645.

Trademark information: EUTM No.W01024989

Holder: FATTORIA LA VIALLA DI GIANNI, ANTONIO E BANDINO LO FRANCO - SOCIETA' AGRICOLA SEMPLICE

Address of the holder: Via di Meliciano, 26, I-52100 AREZZO, (IT)

Registration date: 20/10/2009

Goods/services: class(es) 29, 30, 31 and 32 (as attached)

Trademark information: EUTM No.W01036645

Holder: FATTORIA LA VIALLA DI GIANNI, ANTONIO E BANDINO LO FRANCO - SOCIETA' AGRICOLA SEMPLICE

Address of the holder: Via di Meliciano, 26, I-52100 AREZZO, (IT)

Registration date: 30/12/2009

Goods/services: class(es) 29, 30, 31, 32 and 33 (as attached)

Due to the mentioned opposition, the protection in the Republic of Croatia shall not be provisionally granted to the international registration No. 144 6375 for all the goods.

Excerpt from the register enclosed

XI Corresponding essential provisions of the applicable law:

Relative grounds for refusal – Article 10 of the Trademarks Act (Official Gazette of the Republic of Croatia, No. 14/19)

(1) Upon opposition by the proprietor of an earlier trademark, the trademark applied for shall not be registered:

1. if it is identical with the earlier trademark and the goods or services for which registration is applied for are identical with the goods or services for which the earlier trademark is protected;
2. if because of its identity with, or similarity to, the earlier trademark and the identity or similarity of the goods or services covered by the trademarks there exists a likelihood of confusion on the part of the public in the Republic of Croatia; the likelihood of confusion includes the likelihood of association with the earlier trademark;
3. if it is identical with or similar to the earlier trademark, irrespective of whether the goods or services for which it is applied are identical with, similar to or not similar to those for which the earlier trademark is registered, where the earlier trademark has a reputation in the Republic of Croatia, and where the use without due cause of the later trademark would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trademark.

(2) For the purposes of paragraph 1 of this Article, "earlier trademarks" mean:

1. trademarks of the following kinds with a date of application for registration which is earlier than the date of application for registration of the contested trademark, taking account, where appropriate, of the priorities claimed in respect of those trademarks:
 - (a) nationally registered trademarks,
 - (b) trademarks registered under international arrangements which have effect in the Republic of Croatia,
 - (c) EU trademarks,
 - (d) EU trademarks registered under international arrangements which have effect in the European Union.
2. applications for the registration of trademarks referred to in point 1 subpoints (a) and (c) of this paragraph, subject to their registration,
3. trademarks which, on the date of application for registration of the trademark, or, if priority is claimed, on the date of priority right claimed in the application, are well known in the Republic of Croatia, in the sense in which the words "well known" are used in Article 6bis of the Paris Convention.

- (3) Upon opposition by the proprietor of an earlier right, a trademark shall not be registered if its use would infringe one of the following earlier rights:
1. a right to a name,
 2. a right of personal portrayal,
 3. a copyright,
 4. industrial property rights other than those provided by this Act as a separate ground for refusal of trademark registration, provided that such rights are acquired on a date which is earlier than the date of application for registration of the trademark, taking account, where appropriate, of the priorities claimed in respect of that trademark.
- (4) Upon opposition by the owner of a company entered in a court register before the date of application for registration of the trademark in respect of the opposition, taking account, where appropriate, of the priorities claimed in respect of that trademark, the trademark shall not be registered if the company or an essential part thereof is identical with, or similar to, the trademark and the goods or services which are the subject matter of business of that company are identical or similar to those for which the trademark is applied for and are being used in trade, unless the applicant had the identical or similar company at the time of filing the application for registration of a trademark.
- (5) Upon opposition by the proprietor of the trademark, the trademark shall not be registered in the name of a trade agent or a representative of a trademark holder without his authorisation, unless a trade agent or a representative justifies his action.
- (6) Upon opposition by any person authorised under the relevant law to exercise the rights arising from a designation of origin or a geographical indication, the trademark applied for shall not be registered where and to the extent that, pursuant to the Union legislation or national law of the Republic of Croatia providing for the protection of designations of origin or geographical indications:
1. an application for a designation of origin or a geographical indication had already been submitted, in accordance with Union legislation or national law of the Republic of Croatia, prior to the date of application for registration of the trademark or the date of the priority claimed for the application, subject to its subsequent registration; and
 2. that designation of origin or geographical indication confers the right to the person authorised under the relevant law to exercise the rights arising from it to prohibit the use of a subsequent trademark.

Relativni razlozi za odbijanje – Članak 10. Zakona o žigu („Narodne novine“, broj 14/19)

- (1) Na temelju prigovora nositelja ranijeg žiga, žig za koji je podnesena prijava neće se registrirati:
1. ako je istovjetan s ranijim žigom i ako su proizvodi ili usluge za koje je podnesena prijava za registraciju istovjetni s proizvodima ili uslugama za koje je raniji žig zaštićen
 2. ako zbog njegove istovjetnosti ili sličnosti s ranijim žigom i istovjetnosti ili sličnosti proizvoda ili usluga obuhvaćenih žigovima postoji vjerojatnost dovođenja javnosti u zabludu u Republici Hrvatskoj; vjerojatnost dovođenja u zabludu uključuje vjerojatnost dovođenja u vezu s ranijim žigom
 3. ako je istovjetan ili sličan ranijem žigu, neovisno o tome jesu li proizvodi ili usluge iz prijave istovjetni, slični ili nisu slični onima za koje je registriran raniji žig, ako raniji žig ima ugled u Republici Hrvatskoj, a uporaba kasnijeg žiga bez opravdanog razloga nepošteno bi iskoristila razlikovni karakter ili ugled ranijeg žiga ili im naštetila.
- (2) Za potrebe stavka 1. ovoga članka pod pojmom „raniji žigovi“ smatraju se:
1. žigovi sljedećih vrsta s datumom prijave za registraciju koji je raniji od datuma prijave za registraciju osporavanoga žiga, uzimajući u obzir, ako je to primjereno, prava prvenstva koja su zatražena u odnosu na te žigove:
 - a) nacionalno registrirani žigovi
 - b) žigovi registrirani na temelju međunarodnih sporazuma koji imaju učinak u Republici Hrvatskoj
 - c) žigovi Europske unije
 - d) žigovi Europske unije registrirani na temelju međunarodnih sporazuma koji vrijede u Europskoj uniji
 2. prijave za registraciju žigova iz točke 1. podtočaka (a) i (c) ovoga stavka, pod uvjetom njihove registracije
 3. žigovi koji su na datum prijave za registraciju žiga ili, ako je zatraženo pravo prvenstva u prijavi za registraciju žiga, na datum prava prvenstva dobro poznati u Republici Hrvatskoj u smislu u kojemu se izraz „dobro poznat“ rabi u članku 6.bis. Pariške konvencije.

(3) Na temelju prigovora nositelja ranijeg prava neće se registrirati žig ako bi njegova uporaba vrijeđala neko od sljedećih ranijih prava:

1. pravo na ime
2. pravo na osobnu sliku
3. autorsko pravo
4. druga prava industrijskog vlasništva osim onih propisanih ovim Zakonom kao zaseban temelj za odbijanje registracije žiga

pod uvjetom da su ta prava stečena na dan koji je raniji od datuma prijave za registraciju žiga uzimajući u obzir, ako je to primjereno, pravo prvenstva koje je zatraženo u odnosu na takav žig.

(4) Na temelju prigovora imatelja tvrtke upisane u sudski registar prije dana podnošenja prijave za registraciju žiga u odnosu na koji se podnosi prigovor, uzimajući u obzir, ako je to primjereno, pravo prvenstva koje je zatraženo u odnosu na takav žig, neće se registrirati žig ako je tvrtka ili bitni dio tvrtke istovjetan ili sličan žigu i proizvodi ili usluge koje su predmet djelatnosti te tvrtke istovjetni su ili slični onima iz prijave žiga i rabe se u trgovačkom prometu, osim ako je podnositelj prijave u trenutku podnošenja prijave imao istovjetnu ili sličnu tvrtku.

(5) Na temelju prigovora nositelja žiga neće se registrirati žig čiju prijavu za registraciju u svoje ime bez dopuštenja nositelja žiga podnese trgovački zastupnik ili predstavnik nositelja žiga, osim ako takav zastupnik ili predstavnik opravda svoj postupak.

(6) Na temelju prigovora bilo koje osobe ovlaštene prema mjerodavnom pravu za ostvarivanje prava koja proizlaze iz oznake izvornosti ili oznake zemljopisnog podrijetla, žig za koji je podnesena prijava neće se registrirati kada, i u opsegu u kojem, sukladno zakonodavstvu Europske unije ili pravnim propisima Republike Hrvatske kojim se predviđa zaštita oznaka izvornosti ili oznaka zemljopisnog podrijetla:

1. je zahtjev za oznaku izvornosti ili oznaku zemljopisnog podrijetla već podnesen u skladu sa zakonodavstvom Europske unije ili pravnim propisima Republike Hrvatske prije datuma prijave za registraciju žiga ili datuma prvenstva zatraženog u prijavi, pod uvjetom njezine kasnije registracije te
2. ta oznaka izvornosti ili oznaka zemljopisnog podrijetla daje osobi ovlaštenoj u okviru mjerodavnog prava za ostvarivanje prava koja proizlaze iz nje pravo zabrane uporabe kasnijeg žiga.

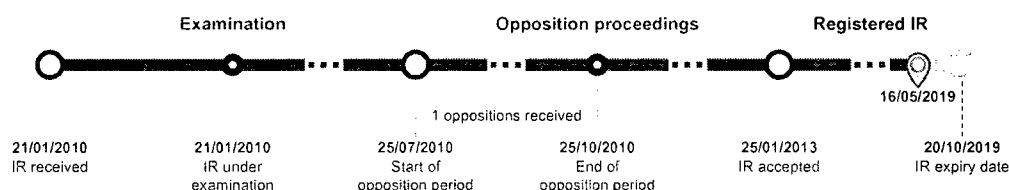


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EUTM file information

LA VIALLA
1024989

Timeline



Trade mark information

Name	LA VIALLA	Filing date	
Filing number	1024989	Registration date	20/10/2009
Basis	IR (Search on WIPO database)	Expiry date	20/10/2019
Date of receipt	21/01/2010	Designation date	20/10/2009
Type	Word	Filing language	English
Nature	Individual	Second language	Italian
Nice classes	29, 30, 31, 32 (Nice Classification)	Application reference	
Vienna Classification		Trade mark status	IR accepted
		Acquired distinctiveness	No

Goods and services

English (en)

- 29** Preserves, butter, preserved fruit and vegetables, cheeses, jams, edible olive oil, cooked and raw ham, delicatessen products, pickles, sauces.
- 30** Vinegar, confectionery products, sweets, biscuits, bread, pizza, pasta, sauces (seasonings), sauces for salad, seasoning and dressing products, honey.
- 31** Untreated cereal corns, cereal bran, spelt, fresh fruit, fresh mushrooms, wheat, maize, fresh vegetables, seeds (for sowing), soybeans.
- 32** Soft drinks, fruit-based beverages, fruit juices, syrups.

Description

No data

Owners

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X

ID	n/a	Country	IT - Italy	Hidden. You can set your contact details to be publicly available via the User Area.
Organisation	n/a	State/county	n/a	
Legal status	n/a	Town	n/a	Hidden. You can set your contact details to be publicly available via the User Area.
		Post code	n/a	
		Address	Via di Meliciano, 26 I-52100 AREZZO	Hidden. You can set your contact details to be publicly available via the User Area.

Representatives

No data

Correspondence

	From	Procedure	Filing number	Subject	Date	Actions
		IR	1024989	New name	07/02/2019	
		IR	1024989	MSU02 - Information to proprietors of earlier trade mark registrations or applications	16/06/2016	
		IR	1024989	Processed	28/03/2013	
		IR	1024989	WIPO attachments	30/01/2013	
		IR	1024989	TRANFI	30/01/2013	
	Opposition	001651671	B218B - Communication to the applicant/holder of the conclusion of the opposition proceedings following the restriction of the opposed trade mark before the commencement of the adversarial part of the proceedings	09/11/2011		
	Opposition	001651671	B218A - Communication to the opponent of conclusion of the opposition proceedings following the restriction of the opposed trade mark before the commencement of the adversarial part of the proceedings	09/11/2011		
	IR	1024989	Restrict	03/11/2011		
	IR	1024989	Surveillance letter for International registrations.	20/07/2011		
	Opposition	001651671	B214B - Notification to the applicant/holder of an extension of the period before the commencement of the adversarial part of the opposition proceedings	16/02/2011		

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IR transformation

No data

Seniority

No data

Exhibition priority

No data

Priority

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Country	Filing number	Date	Status
Italy	MI2009C009910	13/10/2009	Accepted
Showing 1 to 1 of 1 entries			

Publications

Bulletin number	Date	Section	Description
2010/014	25/01/2010	M.1	IR_M_1
2013/020	29/01/2013	M.3.1	IR_M_3_1
Showing 1 to 2 of 2 entries			

Cancellation

No data

Recordals

No data

Oppositions

Filing number	Date	Grounds	Opponent	Representative	Language	Reference	Status	Extent of opposition
001651671	21/04/2010	Likelihood of confusion	Bodenhald GmbH	ASA AVOCATS ASSOCIES	English		Closed	
Showing 1 to 1 of 1 entries								

Appeals

No data

Decisions

No data

Renewals

No data

Trade mark relations

No data

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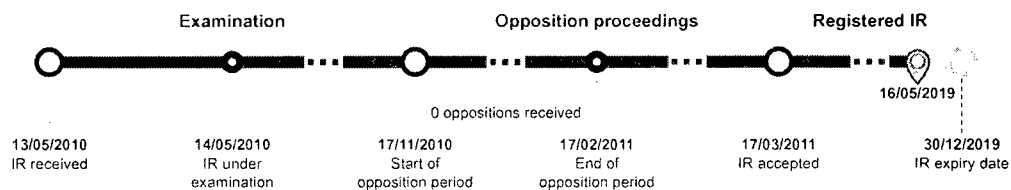
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EUTM file information

FATTORIA LA VIALLA

1036645

Timeline



Trade mark information

Name	FATTORIA LA VIALLA	Filing date	
Filing number	1036645	Registration date	30/12/2009
Basis	IR (Search on WIPO database)	Expiry date	30/12/2019
Date of receipt	13/05/2010	Designation date	30/12/2009
Type	Word	Filing language	English
Nature	Individual	Second language	Italian
Nice classes	29, 30, 31, 32, 33 (Nice Classification)	Application reference	
Vienna Classification		Trade mark status	IR accepted
		Acquired distinctiveness	No

Goods and services

English (en)

- 29** Preserves, butter, preserved fruit and vegetables, cheeses, jams, edible olive oil, cooked and raw ham, delicatessen products, pickles.
- 30** Vinegar, confectionery products, sweets, biscuits, bread, pizza, pasta, sauces (seasonings), sauces for salad, seasoning and dressing products, honey, sauces.
- 31** Untreated cereal corns, cereal bran, spelt, fresh fruit, fresh mushrooms, wheat, maize, fresh vegetables, seeds (for sowing), soybeans.
- 32** Soft drinks, fruit-based beverages, fruit juices, syrups for making beverages.
- 33** Alcoholic drinks (except beers), alcoholic extracts, liqueurs and spirits, wines, sparkling wines, grappas.

Description

No data

Owners

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AGRICOLA SEMPLICE

ID	n/a	Country	IT - Italy
Organisation	n/a	State/county	n/a
Legal status	n/a	Town	n/a
		Post code	n/a
		Address	Via di Meliciano, 26 I-52100 AREZZO

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Representatives

No data

Correspondence

From	Procedure	Filing number	Subject	Date	Actions
	IR	1036645	New name	07/02/2019	
	IR	1036645	Processed	07/04/2011	
	IR	1036645	WIPO attachments	18/03/2011	
	IR	1036645	TRANGP	18/03/2011	
	IR	1036645	L109 - European Union search report sent	03/08/2010	
	IR	1036645	Processed	10/06/2010	
	IR	1036645	WIPO attachments	26/05/2010	
	IR	1036645	TRANGP	26/05/2010	
	IR	1036645	WIPO attachments	14/05/2010	
	IR	1036645	Birth	14/05/2010	
Showing 1 to 10 of 10 entries					

IR transformation

No data

Seniority

No data

Exhibition priority

No data

Priority

Country	Filing number	Date	Status
Italy	MI2009C011647	27/11/2009	Accepted
Showing 1 to 1 of 1 entries			

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Bulletin number	Date	Section	Description
Showing 1 to 2 of 2 entries			

Cancellation

No data

Recordals

No data

Oppositions

No data

Appeals

No data

Decisions

No data

Renewals

No data

Trade mark relations

No data

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