



MADRID AGREEMENT AND PROTOCOL

PROVISIONAL REFUSAL OF PROTECTION

Notified to the International Bureau of the World Intellectual Property Organization (WIPO)
according to article 5 of the Madrid Agreement

I.	Office making the notification: AMT FÜR VOLKSWIRTSCHAFT OFFICE OF ECONOMIC AFFAIRS Liechtenstein National Administration Intellectual Property P.O. Box 684 9490 Vaduz
II.	Number of the international registration: 1 406 637 Welcome to SPAIN BUSINESS Number of the basic registration and country of origin: Spain, 07.07.2016, 3600728
III.	Name of the holder (or other indication enabling the identity of the international registration to be confirmed): ICEX ESPAÑA EXPORTACION E INVERSIONES Paseo de la Castellana, 278 E-28046 MADRID (MADRID) (Spain)
IV.	<input checked="" type="checkbox"/> Provisional refusal based on an <i>ex officio</i> examination <input type="checkbox"/> Provisional refusal based on an opposition <input type="checkbox"/> Provisional refusal based on both an <i>ex officio</i> examination and an opposition
V.	<input checked="" type="checkbox"/> Provisional refusal for all the goods and/or services of the class 35 as indicated in the IR. <input type="checkbox"/> Provisional refusal for some of the goods and/or services: [followed by an indication of the goods and/or services which are affected or are not affected]

VI. Absolute Grounds for Refusal and Remarks:

- ☐ signs that are in the public domain;
- ☐ shapes that constitute the nature of the goods themselves or shapes of the goods or their packaging that are technically necessary;
- ☒ misleading signs;
- ☐ signs contrary to public policy, morality, or applicable law
- ☐ the representation of the mark is insufficient or the list of goods or services is clearly not correctly formulated
- ☐ the regulation of the collective or guarantee mark is lacking

Due to the geographical indication "Welcome to SPAIN BUSINESS" the services under the class 35 must be of Spanish origin. This is deceptive, if the services do not comply with the legal prerequisites (see under VIII). The objection can be overcome by agreeing to the following clarifying restriction: "All services are of Spanish origin."

VII. Information relating to an earlier mark :

- (i) Filing date and number, and, if any, priority date:
- (ii) Registration date and number (if available):
- (iii) Name and address of the owner:
- (iv) Reproduction of the mark:
- (v) List of all or relevant goods and/or services:

VIII. Corresponding essential provisions of the applicable law [(see text under XII)]:

**Art. 2 lit. c) Markenschutzgesetz (MSchG) [Trademark Act]
Art. 45**

IX. Information relating to subsequent procedure:

- (i) Time limit for requesting review or appeal: **13 November 2019**

- (ii) Authority to which such request for review or appeal should be made:

AMT FÜR VOLKSWIRTSCHAFT

OFFICE OF ECONOMIC AFFAIRS

Liechtenstein National Administration Intellectual Property

P.O. Box 684

9490 Vaduz

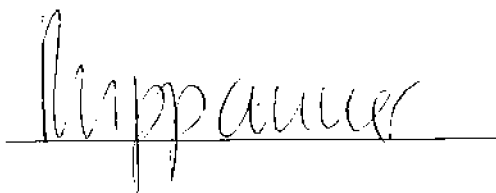
- (iii) Indications concerning the appointment of a representative:

In case of the acceptance of the above suggested restriction a written declaration of consent may be sent by post directly to the Office of Economic Affairs, Liechtenstein, without appointing an agent as representative.

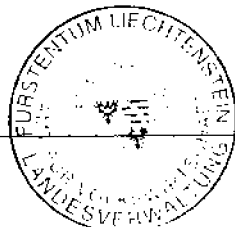
In case of no acceptance - the holder may submit his objections exclusively through an agent registered in Liechtenstein, who will act as the applicant's representative before the Office (Art. 39 MSchG).

- X. Date of the notification of provisional refusal: 13 June 2019

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



Jolanda Ruppanner
Bureau of Intellectual Property



XII. Corresponding essential provisions of the applicable law:

**Gesetz vom 12. Dezember 1996 über den Schutz von Marken und Herkunftsangaben
(Markenschutzgesetz)¹**

**Law of 12 December 1996 regarding the Protection of Trademarks and Geographical Indications
(Trademark Act)**

***Article 1
(Definition)***

1. The trademark is a sign which is capable of distinguishing the goods or services of one undertaking from those of other undertakings.
2. Trademarks may be, in particular, words, letters, numbers, graphic representations, 3-dimensional shapes or combinations of such elements with each other or with colours

***Article 2
(Absolute grounds for exclusion)***

The following are excluded from trademark protection:

- a) signs which are common property, unless they have become recognised as the trademark for the goods or services for which they are claimed;
- b) shapes which constitute the nature of the goods themselves and shapes of goods or of their packaging which are technically necessary;
- c) misleading signs;
- d) signs which contravene public order, public morality or applicable law.

¹ The German wording of legal texts is binding, courtesy English translation only.

Indications of Source

Art. 45

Principle

- 1) Indications of source are direct or indirect references to the geographical origin of goods or services, including references to their characteristics or the quality associated with their origin.**
- 2) Geographical names and signs that are not understood by the relevant public as indicating a certain origin of the goods or services are not considered indications of source within the meaning of paragraph 1.**
- 3) It is prohibited to use:**
 - a) incorrect indications of source;**
 - b) designations that may be confused with an incorrect indication of source;**
 - c) a name, a company name, an address or a trade mark associated with goods or services of a different origin where this could be misleading.**
- 3a) Where indications of source are used with additions such as «kind», «type», «style» or «imitation», the same requirements must be fulfilled that apply to the use of indications of source without these additions.**
- 3b) Indications regarding research or design or other specific activities associated with the product may only be used if this activity takes place entirely at the specified location.**
- 4) Regional or local indications of source for services are considered to be correct if such services satisfy the criteria of origin for the country concerned as a whole.**

Art. 39

Representatives and persons authorised to accept service

- 1. Any person involved in administrative or judicial proceedings governed by this Act and who has a residence, domicile or place of business neither within the country, nor in another EEA Member State nor in Switzerland, may only participate before the administrative or judicial authorities with jurisdiction if he has appointed as representative an attorney at law or patent attorney who is established to practise within the country, or is temporarily admitted to practise professionally within the country.**
- 2. For any person involved in administrative or judicial proceedings governed by this Act and who has a residence, domicile or place of business in another EEA Member State or in Switzerland, the appointment of a person authorised to accept service within the country shall be deemed sufficient for participation before the administrative or judicial authorities with jurisdiction.**