

## PROVISIONAL REFUSAL

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

### Refusal not based on opposition

"EX OFFICIO"

#### I. Office:

INSTITUTO NACIONAL DA PROPRIEDADE INDUSTRIAL  
DIREÇÃO DE MARCAS E PATENTES  
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1149-035 – LISBOA PORTUGAL  
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II. International registration number: 1408814

Trademark elements: **Goldstar**

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.

Relative grounds:

Art. 239<sup>th</sup> – 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;

#### V. Conflicting rights.

Application/registration number: National Trademark No. 243434

Filing Date: 08.10.1987

Registration date (if available): 18.03.1992

Name and address of the owner:

LG CORP.

128, Yeoui-daero, Yeongdeungpo-gu

Seoul 150-721

REPÚBLICA DE COREA (LA)

Trademark: **GoldStar**

**List of goods and/or services on which the conflict is based:**

**Class 07:** ELEVADORES, ESCADAS ROLANTES, MÁQUINAS ELÉCTRICAS DE LAVAR ROUPA E LAVAR LOUÇA, BOMBAS (NÃO INCLUIDAS NOUTRAS CLASSES) BATERIAS ELÉCTRICAS, MISTURADORAS, COMPRESSORES, MOTORES (EXCEPTO PARA VEÍCULOS), PULVERIZADORES ELÉCTRICOS (MÁQUINAS), CALDEIRAS (NÃO INCLUIDAS NOUTRAS CLASSES), MÁQUINAS, INCLUINDO «ROBOTS», MÁQUINAS DE MOLDAR POR INJEÇÃO, MÁQUINAS DE MOBILIZAÇÃO DE TERRAS, MÁQUINAS DE ASFALTAR PAVIMENTOS, MÁQUINAS DE PESCAR E SEUS ACESSÓRIOS, MÁQUINAS TEXTEIS E MÁQUINAS DE FUNDIÇÃO, TORNOS (MÁQUINAS), FREZADORAS, BROCAS (NÃO INCLUIDAS NOUTRAS CLASSES), GUINDASTES, TRANSPORTADORES DE CORREIA, INCUBADORAS, DEBULHADORAS, MÁQUINAS DE CEIFAR/DEBULHAR/GRADAR E TRACÇÃO, CULTIVADORES MECÂNICOS, PRENSAS MECÂNICAS E PRENSAS HIDRÁULICAS, ARADOS E DISPOSITIVOS MECÂNICOS PARA LAVRAR, DÓBADOIRAS, MÁQUINAS PARA PAPEL, COMPRESSORES DE AR, FERRAMENTAS ELÉCTRICAS E PNEUMÁTICAS E EQUIPAMENTOS PNEUMÁTICOS.

**Application/registration number: National Trademark No. 243435**

**Filing Date: 08.10.1987**

**Registration date (if available): 18.03.1992**

**Name and address of the owner:**

LG CORP.

128, Yeoui-daero, Yeongdeungpo-gu

Seoul 150-721

REPÚBLICA DE COREA (LA)

Trademark: **GoldStar**

**List of goods and/or services on which the conflict is based:**

**Class 09:** APARELHOS/INSTRUMENTOS CIENTÍFICOS E DE REGISTO/TRANSMISSÃO/REPRODUÇÃO DE INFORMAÇÃO; EXTINTORES. INCLUI: APARELHOS/INSTRUMENTOS EM GERAL PARA CONTROLE, MEDIDA, VERIFICAÇÃO, INVESTIGAÇÃO, SALVAMENTO E ENSINO; APARELHOS E SUPORTES DE GRAVAÇÃO, REGISTO E REPRODUÇÃO DE SOM/ IMAGEM; DISTRIBUIDORES AUTOMÁTICOS E CAIXAS REGISTRADORAS; CALCULADORES E COMPUTADORES; ELECTRODOMÉSTICOS; ACESSÓRIOS ELÉCTRICOS; EXCLUI: ELECTRODOMÉSTICOS P/COZINHA (CL.07); BARBEADORES ELÉCTRICOS E SIMILARES (CL.08); AQUECEDORES DE AMBIENTE OU LÍQUIDOS E APARELHOS DE VENTILAÇÃO (CL.11); RELÓGIOS E CRONÓMETROS (CL.14).

**Application/registration number: National Trademark No. 243436**

**Filing Date: 08.10.1987**

**Registration date (if available): 18.03.1992**

**Name and address of the owner:**

LG CORP.

128, Yeoui-daero, Yeongdeungpo-gu

Seoul 150-721

REPÚBLICA DE COREA (LA)

**Trademark:** **GoldStar**

**List of goods and/or services on which the conflict is based:**

Class 11: MÁQUINAS PARA PRODUIR FRIO INCLUINDO FRIGORÍFICOS, CONGELADORES E MÁQUINAS DE GELO; DISPOSITIVOS ELÉCTRICOS DE EXPOSIÇÃO (ILUMINAÇÃO) NÃO INCLUIDOS NOUTRAS CLASSES, VENTONHAS E VENTILADORES ELÉCTRICOS, CONDICIONADORES DE AR INCLUINDO CONDICIONADORES PARA VEÍCULOS; HUMIDIFICADORES, TORRADEIRAS, AQUECEDORES, FOGÕES INCLUINDO FOGÕES A GAS E A QUEROZENE; FORNOS MICRO-ONDAS, PANELES ELÉCTRICAS E ELECTRO-MAGNÉTICAS, CAFETEIRAS ELÉCTRICAS, PURIFICADORES DE AR, CHAMINÉS PARA FUMOS E SECADORES DE CABELO ELÉCTRICOS.

**Application/registration number: European Union Trademark No. 015122401**

**Filing Date: 18.02.2016**

**Registration date (if available): 09.06.2016**

**Name and address of the owner:**

LG CORP.

128, Yeoui-daero, Yeongdeungpo-gu

Seoul 150-721

REPÚBLICA DE COREA (LA)

**Trademark:** **GoldStar**

**List of goods and/or services on which the conflict is based:**

**Class 07:** Electric clothes washing machines; Automatic dishwashers; Electric vacuum cleaners.

**Class 09:** Mobile phones; Television receivers; Monitors for computers; Computers; Digital Versatile Disc [DVD] players; Apparatus for recording, transmission or reproduction of sound or images; Computer application software; Audio receivers.

**Class 11:** Air conditioners; Hot air apparatus, namely, hot-air space heating apparatus; Humidifiers; Electric dehumidifier for household use; household air cleaners; Light Emitting Diode [LED] lighting; Electric apparatus or installations for cooking; Electric refrigerators; Electric clothes dryers.

**VI.**

**Refusal for the following goods:**

**Class 07:** MACHINES, AEROCONDENSERS; AGITATORS; AGRICULTURAL MACHINES; AGRICULTURAL ELEVATORS; FILTERS FOR CLEANING COOLING AIR, FOR ENGINES; AIR CONDENSERS; CARBURETTER FEEDERS; IGNITING DEVICES FOR INTERNAL COMBUSTION ENGINES; ALTERNATORS; VALVES [PARTS OF MACHINES]; AXLES FOR MACHINES; CRANK SHAFTS; LIFTS, OTHER THAN SKI-LIFTS; ELEVATORS [LIFTS]; MIXING MACHINES; CENTRIFUGAL MACHINES; CENTRIFUGES [MACHINES]; CENTRIFUGAL MILLS; CENTRIFUGAL PUMPS; COMPRESSORS [MACHINES]; TURBOCOMPRESSORS; STEAM CONDENSERS [PARTS OF MACHINES]; CONDENSING INSTALLATIONS; DISHWASHERS; WASHING APPARATUS; WASHING MACHINES [LAUNDRY]; WASHING INSTALLATIONS FOR VEHICLES; VEHICLE WASHING INSTALLATIONS; COIN-OPERATED WASHING MACHINES; LIFTING APPARATUS; WRINGING MACHINES FOR LAUNDRY; CRUSHERS FOR KITCHEN USE, ELECTRIC; RAILROAD CONSTRUCTING MACHINES; COMPRESSED AIR ENGINES; COMPRESSED AIR MACHINES; COMPRESSED AIR PUMPS; INDUSTRIAL ROBOTS; BLENDERS, ELECTRIC, FOR HOUSEHOLD PURPOSES; KITCHEN MACHINES, ELECTRIC; FOOD PROCESSORS, ELECTRIC.

**Class 09:** 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; ACOUSTIC ALARMS; SOUND ALARMS; ACOUSTIC CONDUITS; PHONOGRAPH RECORDS; SOUND RECORDING DISCS; ENLARGING APPARATUS [PHOTOGRAPHY]; ALARMS; AMPLIFIERS; AUDIOVISUAL TEACHING APPARATUS; JUKE BOXES, MUSICAL; COIN-OPERATED MUSICAL AUTOMATA [JUKE BOXES]; BAROMETERS; CALCULATING MACHINES; BLUEPRINT APPARATUS; CINEMATOGRAPHIC CAMERAS; CAPILLARY TUBES; SOUND RECORDING CARRIERS; HEAT REGULATING

APPARATUS; DARKROOMS [PHOTOGRAPHY]; APPARATUS FOR EDITING CINEMATOGRAPHIC FILM; PRINTED CIRCUITS; PEDOMETERS; COUNTERS; METERS; METRONOMES; CONDENSERS [CAPACITORS]; CAPACITORS; CONDUCTORS, ELECTRIC; ELECTRICITY CONDUITS; CIRCUIT CLOSERS; CONNECTORS [ELECTRICITY]; JUNCTION BOXES [ELECTRICITY]; FLASH-BULBS [PHOTOGRAPHY]; TELEPHONE RECEIVERS; FLUORESCENT SCREENS; PROJECTION SCREENS; WORKMEN'S PROTECTIVE FACE-SHIELDS; SCREENS [PHOTOGRAPHY]; DRAINERS FOR USE IN PHOTOGRAPHY; PHOTOGRAPHIC RACKS; TRANSMITTERS OF ELECTRONIC SIGNALS; TRANSMITTING SETS [TELECOMMUNICATION]; CLEANING APPARATUS FOR PHONOGRAPH RECORDS; CLEANING APPARATUS FOR SOUND RECORDING DISCS; SOUND RECORDING STRIPS; TRANSMITTERS [TELECOMMUNICATION]; VACUUM TUBES [RADIO]; ; DISKS, MAGNETIC; FLOPPY DISKS; HEAD CLEANING TAPES [RECORDING]; VIDEO RECORDERS; COMPUTER KEYBOARDS; INTEGRATED CIRCUITS; SEMI-CONDUCTORS; OPTICAL FIBRES [LIGHT CONDUCTING FILAMENTS]; OPTICAL FIBERS [LIGHT CONDUCTING FILAMENTS]; TELEPHONE WIRES; CHRONOGRAPHS [TIME RECORDING APPARATUS]; COMPACT DISCS [AUDIO-VIDEO]; COMPACT DISCS [READ-ONLY MEMORY]; COMPUTER OPERATING PROGRAMS, RECORDED; COMPUTER PERIPHERAL DEVICES; COMPUTER SOFTWARE, RECORDED; INTERFACES FOR COMPUTERS; JUKE BOXES FOR COMPUTERS; POCKET CALCULATORS; VIDEO CASSETTES; VIDEO GAME CARTRIDGES; VIDEO SCREENS; VIDEO TELEPHONES; ELECTRONIC PUBLICATIONS, DOWNLOADABLE; COMPUTER PROGRAMS [DOWNLOADABLE SOFTWARE]; NAVIGATION APPARATUS FOR VEHICLES [ON-BOARD COMPUTERS]; COMPUTER GAME SOFTWARE; FIRE-EXTINGUISHING APPARATUS.

**Class 11:** APPARATUS FOR LIGHTING, HEATING, STEAM GENERATING, COOKING, REFRIGERATING, DRYING, VENTILATING, WATER SUPPLY AND SANITARY PURPOSES; WATERING INSTALLATIONS, AUTOMATIC; HEAT ACCUMULATORS; ACETYLENE BURNERS; ACETYLENE GENERATORS; ACETYLENE FLARES; VENTILATION HOODS; HOT AIR OVENS; AIR DEODORIZING APPARATUS; AIR DEODORISING APPARATUS; AIR COOLING APPARATUS; FILTERS FOR AIR CONDITIONING; AIR REHEATERS; AIR DRYERS; AIR DRIERS; AIR-CONDITIONING INSTALLATIONS; AIR FILTERING INSTALLATIONS; HOT AIR APPARATUS; HOT AIR BATH FITTINGS; FRAMEWORK OF METAL FOR OVENS; REFRIGERATING CABINETS; WATER HEATERS; BAKERS' OVENS; ANTI-SPLASH TAP NOZZLES; ROASTING JACKS; ROASTING SPITS; LAUNDRY ROOM BOILERS; WASHING COPPERS; HEAT REGENERATORS; HEATING INSTALLATIONS; HEATING INSTALLATIONS [WATER]; HOT WATER HEATING INSTALLATIONS; HEATING BOILERS; BOILER PIPES [TUBES] FOR HEATING INSTALLATIONS; AIR CONDITIONERS FOR VEHICLES; HEATING APPARATUS FOR SOLID, LIQUID OR GASEOUS FUELS; HEATERS FOR VEHICLES; HEATING APPARATUS, ELECTRIC; CENTRAL HEATING RADIATORS; HUMIDIFIERS FOR CENTRAL HEATING RADIATORS; HEATING ELEMENTS; HEATERS FOR HEATING IRONS; IMMERSION HEATERS; HAIR DRYERS; HAIR DRIERS; WATER DISTRIBUTION INSTALLATIONS; DRYING APPARATUS; AIR-CONDITIONING APPARATUS; FREEZERS; COOKING UTENSILS, ELECTRIC; COOKING STOVES; COOKERS; COOKING APPARATUS AND INSTALLATIONS; BEVERAGE COOLING APPARATUS; WATER PURIFICATION INSTALLATIONS; WATER FILTERING APPARATUS; COOLING INSTALLATIONS FOR WATER; FOUNTAINS; PRESSURE WATER TANKS; WATER STERILIZERS; WATER STERILISERS; HEAT EXCHANGERS, OTHER THAN PARTS OF MACHINES; RADIATORS, ELECTRIC; GAS SCRUBBING APPARATUS; DRYING APPARATUS FOR FODDER AND FORAGE; FORAGE DRYING APPARATUS; EVAPORATORS; STOVES [HEATING APPARATUS]; REFRIGERATING APPARATUS AND MACHINES; REFRIGERATING CHAMBERS; WALK-IN REFRIGERATORS; REFRIGERATING CONTAINERS; BREAD

TOASTERS; TOASTERS; ROASTING APPARATUS; GRIDDLES [COOKING APPLIANCES]; GRILLS [COOKING APPLIANCES]; KITCHEN RANGES [OVENS]; AIR VALVES FOR STEAM HEATING INSTALLATIONS; WATER PURIFYING APPARATUS AND MACHINES; AIR PURIFYING APPARATUS AND MACHINES; REFINING TOWERS FOR DISTILLATION; COOLING INSTALLATIONS AND MACHINES; COOKING RINGS; WATER HEATERS [APPARATUS]; STEAM GENERATING INSTALLATIONS; VENTILATION [AIR-CONDITIONING] INSTALLATIONS AND APPARATUS; VENTILATION [AIR-CONDITIONING] INSTALLATIONS FOR VEHICLES.

**VII. Answer to the decision of refusal:**

a) **Time limit to file an answer:** Within one (1) month following the date of the notification of provisional refusal sent by WIPO. Furthermore, this period can be extended once, for one (1) month, at the request of the interested party, online at <http://www.inpi.pt/>, by fax (+351 218 869 859), or by paper form.

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](mailto:atm@inpi.pt)

**VIII. Date of the decision:** 2019/06/04

**IX. Date and signature:** 2019.06.18 Vanessa Semedo

*Vanessa Semedo*

**X. 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. 222<sup>nd</sup> – 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. 223<sup>rd</sup> – Exceptions**

The conditions of [article 222<sup>nd</sup>] 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. 238<sup>th</sup> – 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. 239<sup>th</sup> – Other grounds for refusal**

- 2 – 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.
- 3 – 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/>