



REPUBLIC OF SLOVENIA
MINISTRY OF ECONOMIC DEVELOPMENT AND TECHNOLOGY

SLOVENIAN INTELLECTUAL PROPERTY OFFICE

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Ref. No.: 31212-304/2019-1
102SP(434)

Date: 21.06.2019

MADRID PROTOCOL

Total Provisional Refusal of Protection (Rule 17(1) of the Common Regulations)

I.	Office making the notification: Slovenian Intellectual Property Office Kotnikova 6 SI-1000 Ljubljana Slovenia
II.	Number of the international registration: 1455136
III.	Name of the holder of the international registration: Barilla G. e R. Fratelli - Società per Azioni, Via Mantova, 166 Parma (PR), IT
IV.	Information concerning the type of provisional refusal: <i>Please indicate the type of refusal by checking only one of the following options:</i> ☒ Total provisional refusal based on an ex officio examination
V.	Information concerning the scope of the provisional refusal: Total provisional refusal affects all the goods and/or services.

VI. Grounds for refusal

43 (1) b, c

The mark consists exclusively of the words "MASTERS OF PASTA", being a sign which may serve in trade, to designate the kind and other characteristics of the goods/services.

The mark is devoid of any distinctive character. It is considered that the words "MASTERS OF PASTA" should be available for the other manufacturers in the relevant field to use and cannot be monopolized through registration as a trade mark.

VII. Information relating to the possibility to request a review or file an appeal:

(i) Time limit for requesting review or appeal:

The holder of the registration may request a review of the provisional refusal. The Slovenian Office must receive the request no later than 3 months * from the date of this provisional refusal (the time limit starts from the date indicated under point IX). After a period the Office will issuing its final decision.

*with the written request the deadline may be extended for 3 months

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

Office indicated under I

(iii) Whether the request for review or appeal has to be filed in a specific language and/or through the intermediary of a representative whose address is within the territory of the Contracting Party:

The request for the review must be filed through the intermediary of a representative domiciled in Slovenia. The list of trademark agents is available on <http://www.uil-sipo.si/sipo/addition/resources/patent-and-trademark-agents/>

VIII. Signature or official seal of the Office making the notification: Saša Polc



IX. Date of the notification to the International Bureau: 21.06.2019

X. Corresponding essential provisions of the applicable law:

Article 43

Absolute grounds for refusal

(1) A sign shall not be eligible for registration as a mark if:

- (a) it cannot constitute a mark;
- (b) it is devoid of any distinctive character;
- (c) it serves, in trade, to designate merely the kind, quality, quantity, intended purpose,

- value, geographical origin, or the time of production of the goods or of rendering of the service, or other characteristics of the goods or services;
- (d) it contains or consists of a geographical indication identifying wines or spirits, where the mark application relates to wines or spirits not having this origin;
 - (e) it consists exclusively of signs or indications which have become customary in the current language or in the bona fide and established practices of the trade;
 - (f) it consists exclusively of the shape which results from the nature of the goods themselves or is necessary to obtain a technical result or gives substantial value to the goods;
 - (g) it is contrary to public order or morality;
 - (h) it deceives the public, in particular to the nature, quality or geographical origin of the goods or services;
 - (i) it contains official signs or hallmarks for controlling or guaranteeing the quality of goods, or imitations thereof;
 - (j) it has not been authorized by the competent authorities and should be refused pursuant to Article 6ter of the Paris Convention;
 - (k) it includes or imitates badges, emblems or escutcheons other than those covered by Article 6ter of the Paris Convention and which are of particular public interest, unless the consent of the competent authorities to its registration has been given;
 - (l) it contains or consists of a designation of origin or a geographical indication registered in accordance with the Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (OJ L 208/92, p. 1), provided that the circumstances referred to in Article 13 of that Regulation exist and the sign does not relate to the same sort of product, and provided that the mark application has been filed after the date of filing of the application for the registration of a designation of origin or a geographical indication with the Commission.
- (2) Paragraph 1(b), (c) and (e) shall not apply to marks which acquired a distinctive character through long-term use.
- (3) A sign which is ineligible for registration because it contains the name or abbreviation of the name, State armorial bearing, emblem, flag or other official sign of the Republic of Slovenia, or a part thereof, which is in breach of the provisions of paragraph (1)(j) and (k), shall not be used in the course of trade without the consent of the Government of the Republic of Slovenia.

Article 99

Examination of absolute requirements for the refusal of a mark

- (1) In the examination preceding the publication of a mark application, the Office shall examine whether the sign to which the application relates may be registered as a mark, subject to provisions of Articles 42 and 43. Where the application relates to a collective mark, the Office shall also examine whether the application meets the requirements of Articles 45 and 46.
- (2) Where the Office establishes that the sign to which the application relates meets the requirements of paragraph (1), it shall publish the application.
- (3) Where the Office establishes that the sign to which the application relates does not meet the requirements of paragraph (1), it shall refuse the application wholly or in part.

Article 45

Subject-matter of collective mark protection

- (1) Any sign which meets the requirements of Article 42 and is capable of distinguishing the goods or services of the members of the holder of the collective mark from those of another undertakings as to their origin in a given enterprise or their geographical origin, their nature, quality, or other properties, shall be eligible for registration as a collective mark.
- (2) The applicant for or holder of a collective mark may be any association of legal or natural persons, including umbrella associations having legal personality, hereinafter referred to as "the associations", or legal persons governed by public law.
- (3) The members of the holder may use a collective mark in conformity with regulations referred to in Article 46.
- (4) The provisions of this Act shall apply to the registration of collective marks, unless otherwise provided by this Act.

Article 46

Regulations governing use of a collective mark

(1) An applicant for a collective mark must submit, when filing the application, regulations governing use of the collective mark.

(2) Regulations referred to in paragraph (1) shall include at least:

- (a) the name and seat of the applicant;
- (b) indication of the applicant's business and information concerning the person whom he officially and by laws represents;
- (c) the conditions of membership;
- (d) data concerning the group of persons having authority to use the collective mark;
- (e) provisions concerning the rights and obligations of the members in the event of infringement of the collective mark.

(3) The applicant for or holder of a collective mark shall immediately communicate to the Office any amendment to the regulations, which shall be examined by the Office as to its compliance with paragraph (2).

(4) Anyone may inspect the regulations governing use of a collective mark.