



STATE INTELLECTUAL PROPERTY OFFICE OF THE REPUBLIC OF CROATIA

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Zagreb, **21/08/2019**

Our reference: **910-08/19-010/0070**
559-04/3-19-002/BB

Provisional refusal of protection / Privremeno odbijanje

According to Rule 17.1) of the Common Regulations under the Madrid Agreement and Protocol / Sukladno pravilu 17.1) zajedničkog pravilnika Madridskog Sporazuma i Protokola

I. Number of the international registration / Broj međunarodne registracije: **1 428 399**

II. Name of the holder / Ime nositelja:

COASTROCK HOLDINGS LIMITED

Thasou 3, Dadlaw House
CY-1520 Nicosia
CY

III. ☒ Provisional refusal based on **an ex officio examination** /
Privremeno odbijanje temeljem ispitivanja po službenoj dužnosti:

IV. ☒ Provisional refusal for **some** of the goods and/or services / Privremeno odbijanje **za neke** od proizvoda i/ili usluga:

Class 6 armored doors of metal; armor-plating of metal; bag hangers of metal; bins of metal; box fasteners of metal; boxes of common metal; boxes of common metal; buildings of metal; buildings, transportable, of metal; cashboxes [metal or non-metal]; casks of metal; chests of metal; closures of metal for containers; clothes hooks of metal; construction materials of metal; containers of metal [storage, transport]; door closers, non-electric; door fasteners of metal; door fittings of metal; door handles of metal; door openers, non-electric; door panels of metal; door stops of metal; doors of metal; fittings of metal for building; fittings of metal for furniture; floating containers of metal; framework of metal for building; hardware of metal, small; hooks of metal for clothes rails; locks of metal, other than electric; metal containers for storage or transport; metal materials for building and construction; moldings of metal for building; moldings of metal for cornices; packaging containers of metal; packaging containers of metal; pipework of metal; platforms, prefabricated, of metal; prefabricated houses [kits] of metal; refractory construction materials of metal; reservoirs of metal; roofing of metal; letter boxes of metal; safes [metal or non-metal]; safes [strong boxes]; safes, electronic; safety cashboxes; small items of metal hardware; spring locks; steel buildings; steel wire; tanks of metal; trellis of metal.

Class 7 All goods.

Class 11 All goods.

V. Grounds for refusal / Razlozi odbijanja:

Verbalni znak „FreshBox“ ima opisni i nerazlikovni karakter u odnosu na prijavljene proizvode iz razreda 6, 7 i 11 Međunarodne klasifikacije proizvoda i usluga za koje je tražena registracija. Znak je prijavljen u verbalnom obliku, a sastoji se od izraza „FreshBox“ na engleskom jeziku, gdje riječ fresh u prijevodu na hrvatski jezik znači svjež, prohladan, a riječ box znači kutija, dok se cjelokupni izraz odnosi na kutiju odnosno spremnik u kojem se održava niska temperatura odnosno održava svježina sadržaja. Izraz „FreshBox“ daje informaciju potrošaču da se prijavljeni proizvodi odnose na takvu vrstu spremnika ili su joj namijenjeni. Nadalje, spajanjem riječi „fresh“ i „box“ u jedan izraz nije postignuta razlikovnost znaka u odnosu na prijavljene usluge. Prosječni potrošač neće moći takav znak povezati s određenim proizvođačem i percipirati ga kao žig.

The verbal sign „FreshBox“ is descriptive and devoid of any distinctive character in relation to the goods and services in Classes 6, 7 and 11 of the International Classification of goods and services for which registration is requested. The sign is verbal and consists of the term "FreshBox" in English language and indicates a box or container that maintains a low temperature or freshness of the content. The term "FreshBox" provides information to the consumer that the reported products refer to or are intended for such a type of container. Furthermore, combining the word "fresh" and "box" into one expression did not achieve distinctiveness of the sign in relation to the mentioned services. The average consumer will not be able to link such sign to a specific manufacturer and perceive it as a trademark.

- VI. Corresponding essential provisions of the applicable law [(see the text in column XI)] / Odgovarajuće bitne odredbe zakona koji se primjenjuje [(vidjeti tekst u rubrici XI)]:

Art. 5 para 1 item 2. / Članak 5. stavak 1. toč. 2

Art. 5 para 1 item 3. / Članak 5. stavak 1. toč. 3

- VII. Information relating to subsequent procedure / Podaci koji se odnose na tijek postupka:

- i) Time limit for filing a request for submitting observations on the provisional refusal / Rok za podnošenje zahtjeva za očitovanje na preliminarno odbijanje:**

4 months counting from the date of the present notification of provisional refusal, namely until **21/12/2019** / 4 mjeseca računajući od datuma ove obavijesti o preliminarnom odbijanju, odnosno do **21/12/2019**

- ii) Authority to which such a request for submitting observations on the provisional refusal shall be made / Nadležno državno tijelo kojem se podnosi zahtjev za očitovanje na preliminarno odbijanje:**

STATE INTELLECTUAL PROPERTY OFFICE OF THE REPUBLIC OF CROATIA / Državni zavod za intelektualno vlasništvo Republike Hrvatske

- iii) Indications concerning the appointment of a representative / Navodi u svezi imenovanja zastupnika:**

The holder of an international trademark registration may file observations on the present provisional refusal and on the grounds for refusal only by the intermediary of a representative established in the Republic of Croatia / Nositelj međunarodne registracije žiga može se očitovati na ovo preliminarno odbijanje i očitovati se na razloge odbijanja isključivo uz posredovanje domaćeg zastupnika

Trademark Department
Service for Examination of Trademarks

Signature of the Examiner

Bojana Bolić

XI. Corresponding essential provisions of the applicable law:

Grounds for refusal – Article 5 of the Trademarks Act and the Act on Amendments to the Trademarks Act (OG No. 173/2003, 76/2007, 30/2009, 49/2011, 46/2018)

(1) The following shall not be registered :

1. Signs, which may not be protected as trademarks in accordance with the requirements set out in Article 2 of this Act.
2. Signs, which are devoid of any distinctive character in relation to the goods or services for which registration is requested.
3. Signs which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, or the time of production of the goods or of providing of the service, or to designate other characteristics of the goods or services.
4. Signs which consist exclusively of signs or indications which have become customary in the everyday language or in good faith and the established practices of trade.
5. Signs which consist exclusively of the shape which results from the nature of the goods as such, or the shape of goods which is necessary to obtain a technical result, or the shape which gives substantial value to the goods.
6. Signs, which are contrary to public policy or to accepted principles of morality.
7. Signs which are of such a nature as to deceive the public, for instance as to the nature, quality or geographical origin of the goods or services.
8. Signs, which have not been authorized by the competent authorities and are to be refused pursuant to Article 6ter of the Paris Convention for the Protection of Industrial Property (hereinafter: "the Paris Convention").
9. Signs for wines which contain or consist of geographical indications identifying wines and signs for spirits which contain or consist of geographical indications identifying spirits with respect to such wines or spirits not having that geographical origin.
10. Signs, which contain the name or abbreviation of the name, national coat of arms, emblem, flag or other official sign of the Republic of Croatia, or a part thereof, and the imitation thereof, except with the authorization of the competent authority of the Republic of Croatia.
11. Signs which contain or consist of designations of origin or geographical indications, in effect in the territory of the Republic of Croatia, if a request for the registration of a trademark has been filed after the filing date of a request for the registration of a designation of origin or a geographical indication within the scope provided by legislation, by virtue of which such designations are registered, and which refer to the same type of products and services".

(2) Registration shall not be refused to signs specified in paragraph (1) items 2 to 4 of this Article, if the applicant for the registration of a trademark proves that the sign has, before the date of filing of the application for the registration and following the use which has been made of it, acquired a distinctive character in respect of the goods or services for which registration is requested

Apsolutni razlozi za odbijanje – Članak 5. Zakona o žigu (Narodne novine Republike Hrvatske 173/2003, 76/2007, 30/2009, 49/2011, 46/2018)

Članak 5.

(1) Neće se registrirati:

1. znakovi koji se ne mogu zaštititi kao žig u skladu s uvjetima iz članka 2. ovoga Zakona,
2. znakovi koji nemaju nikakav razlikovni karakter u odnosu na proizvode ili usluge za koje je zatražena registracija,
3. znakovi koji se sastoje isključivo od oznaka ili podataka koji u trgovini mogu služiti za označavanje vrste, kakvoće, količine, namjene, vrijednosti, zemljopisnog podrijetla ili vremena proizvodnje proizvoda ili pružanja usluge, ili za označavanje drugih karakteristika proizvoda,
4. znakovi koji se sastoje isključivo od oznaka ili podataka koji su postali uobičajeni u svakodnevnom govoru ili u dobroj vjeri i ustaljenoj trgovačkoj praksi,
5. znakovi koji se sastoje isključivo od oblika koji proizlazi iz same vrste proizvoda, ili oblika proizvoda potrebnoga za postizanje nekoga tehničkog rezultata, ili oblika koji proizvodima daje bitnu vrijednost,
6. znakovi koji su protivni javnom interesu ili prihvaćenim moralnim načelima,
7. znakovi koji mogu javnost dovesti u zabludu, primjerice u odnosu na vrstu, kakvoću ili zemljopisno podrijetlo proizvoda ili usluga,
8. znakovi koji nemaju odobrenje nadležnih tijela i koji moraju biti odbijeni prema članku 6.ter. Pariške konvencije za zaštitu industrijskoga vlasništva (u daljnjem tekstu »Pariška konvencija«),
9. znakovi za vina koji sadržavaju ili se sastoje od zemljopisnih oznaka koje služe za označavanje vina i znakovi za jaka alkoholna pića koji sadržavaju ili se sastoje od zemljopisnih oznaka koje služe za označavanje jakih alkoholnih pića, u odnosu na vina ili jaka alkoholna pića koja nisu toga zemljopisnog podrijetla,
10. znakovi koji sadržavaju naziv ili kraticu, državni grb, amblem, zastavu ili drugi službeni znak Republike Hrvatske ili nekoga njezina dijela te njihovo oponašanje, osim uz odobrenje nadležnoga tijela Republike Hrvatske.
11. znakovi koji sadržavaju ili se sastoje od oznaka izvornosti ili oznaka zemljopisnog podrijetla koji vrijede na teritoriju Republike Hrvatske, ako je zahtjev za registraciju žiga podnesen nakon datuma podnošenja zahtjeva za registraciju oznake izvornosti ili oznake zemljopisnog podrijetla, u opsegu koji je predviđen propisima na temelju kojih su te oznake registrirane i koji se odnose na istu vrstu proizvoda i usluga.

(2) Znakovima navedenim u stavku 1. točki 2., 3. i 4. ovoga članka neće biti odbijena registracija ako podnositelj prijave za registraciju žiga dokaže da je znak prije dana podnošenja prijave i slijedom njegove uporabe stekao razlikovni karakter u odnosu na proizvode ili usluge za koje je zatražena registracija.