

MADRID AGREEMENT AND PROTOCOL

PROVISIONAL REFUSAL OF PROTECTION

Rule 17(1)

I.	Office sending the statement: Hungarian Intellectual Property Office 1438 Budapest, Pf.415 Fax. :(361) 474 - 5534
II.	Number of the international registration: 125 9963 Date of extension of the mark to Hungary: 2018.10.12
III.	Name of the holder (or other information enabling the identity of the international registration to be confirmed): MLADEGS PAK d.o.o.
IV.	☐ Provisional refusal based on an ex officio examination ☒ Provisional refusal based on an opposition ☐ Provisional refusal based on an observation
V.	☒ Provisional refusal for all the goods and/or services ☐ 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.	Grounds for refusal (where applicable, see item VIII): 4/1/b
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) List of all or relevant goods and/or services:



2014.08.14 **013175278**

2016.03.25

FRUIT SHIPPERS LIMITED, Third Floor, Charlotte House, Charlotte Street Nassau
10051 BAHAMAS
29-32

Corresponding essential provisions of the applicable law:

- VIII. A sign shall not be granted trademark protection if because of its identity with, or similarity to, the earlier trademark and the identity or similarity of the goods or services there exists a likelihood of confusion on the part of the consumers.

Information relating to subsequent procedure:

(i) Time limit for replying the present provisional refusal: **2020.01.15**

(ii) Authority to which such reply shall be made:
Hungarian Intellectual Property Office

(iii) Indications concerning the appointment of a representative:

If the applicant is foreign person whose domicile or residence is outside the European Economic Area, he is obliged to appoint an agent entitled to act before the Hungarian Intellectual Property Office

Note: the official language of trademark procedures before the HIPO is Hungarian.

(iv) Procedure in the absence of a reply:

IX.

If the applicant does not reply to the invitation within the fixed time limit, the Hungarian Intellectual Property Office shall notify the International Bureau, except when paragraph (5a) is applicable, that the protection of the trade mark extending to Hungary is refused (final refusal), or that protection is only partially recognised by the Hungarian Intellectual Property Office. The Hungarian Intellectual Property Office shall send such notification to the International Bureau after the decision on final refusal or on partial recognition of the protection has become final and binding. If trade mark protection is recognised in part, the date of registration shall be the date of the decision.

If the applicant fails to reply, within the fixed time limit, to an invitation of the Hungarian Intellectual Property Office issued solely upon an opposition, the Hungarian Intellectual Property Office shall decide on the registration of the trade mark on the basis of the available information, and shall notify the International Bureau accordingly, sending either a notification on the final refusal or a notification made in accordance with paragraph (5e).

WARNING: In case of an opposition, the expenses arisen in connection with the opposition can be imposed on the losing party by the Hungarian Intellectual Property Office. The amount shall be found in the HIPO's decision.



X.

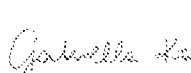
Examiner: Szabó Katalin

Number of decision: A1259963/7

Date: 2019.10.02

XI.

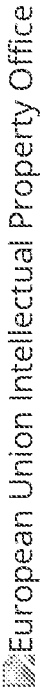
Signature or official seal of the Office sending the statement:


dr. Gabriella Kiss



Head of the International Trademark Section

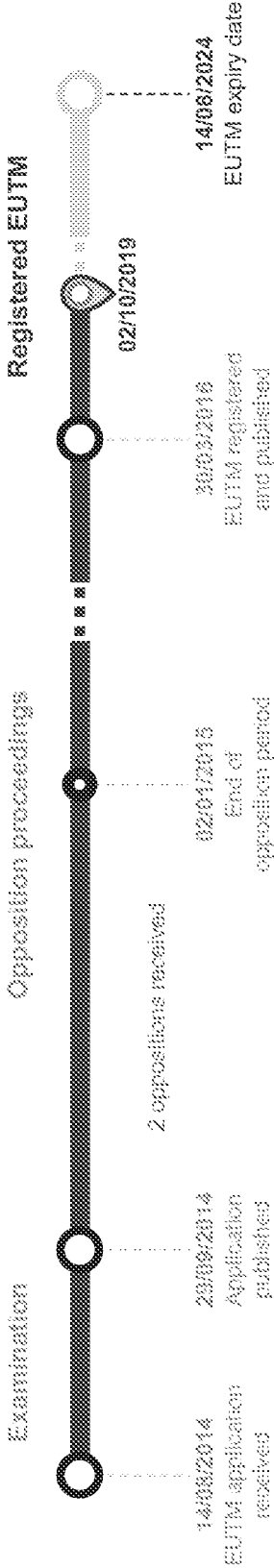




EUTM file information

BONITA
013175278

Timeline



Trade mark information

Name	BONITA	Filing date	14/08/2014
Filing number	013175278	Registration date	25/03/2016

Basis	EUTM	Expiry date	14/08/2024
Date of receipt	14/08/2014	Designation date	
Type	Word	Filing language	English
Nature	Individual	Second language	Italian
Nice classes	29, 30, 31, 32 (Nice Classification)	Application reference	306254-5279/IRO/FB
Vienna Classification		Trade mark status	Registered
		Acquired distinctiveness	No

Goods and services

English (en) ▼

- 29** Meat, fish, poultry and game except in frozen form; meat extracts except in frozen form; milk and milk products except in frozen form; eggs except in frozen form; preserved, dried, baked, cooked and preserved fruits and vegetables; jellies, jams, compotes; Fruit salads; Fruit-based snack food.
- 30** Sugar except in frozen form; natural sweeteners except in frozen form; bakery products, bread, yeast except in frozen form; pasta, baking-powder, flour, spices, and flavourings except in frozen form; honey and honey substitutes except in frozen form; food products based on rice, flour or cereals, also in the form of cooked dishes except in frozen form; Coffee; coffee extracts and coffee-based preparations; coffee substitutes and extracts of coffee substitutes; coffee beans; unroasted coffee; ground coffee; decaffeinated coffee; instant coffee; coffee drinks; coffee beverages; coffee mixtures; flavoured coffee; roasted coffee beans; ground coffee beans; prepared coffee and coffee-based beverages; coffee based drinks; coffee in brewed; coffee in ground form; coffee beverages with milk; ice beverages with a coffee base; filters in the form of paper bags filled with coffee, tea, tea extracts and tea-based preparations; cocoa and preparations having a base of cocoa, chocolate, chocolate products; puddings; breakfast cereals, rice, pasta, also in the form of cooked dishes; fruit sauces; none of the aforementioned goods being confectionery, ice, ice cream, ice cream confections, chocolate spread, cakes, biscuits or mousses.
- 31** Fresh fruits and vegetables live animals; seeds; foodstuffs for animals, malt; agricultural, horticultural and forestry products and grains not included in other classes and excluding natural plants and flowers.

32 Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages; fruit extracts; fruit nectars, non-alcoholic; smoothies.

Description

No data

Owners

FRUIT SHIPPERS LIMITED

ID	50464	Country	BS - Bahamas	Correspondence address	Hidden. You can set your contact details to be publicly available via the User Area.
Organisation	FRUIT SHIPPERS LIMITED	State/county	n/a	FRUIT SHIPPERS LIMITED	Hidden. You can set your contact details to be publicly available via the User Area.
Legal status	Legal entity	Town	Nassau	Third Floor, Charlotte House, Charlotte Street	Hidden. You can set your contact details to be publicly available via the User Area.
		Post code	10051	Nassau 10051	Hidden. You can set your contact details to be publicly available via the User Area.
		Address	Third Floor, Charlotte House, Charlotte Street	BAHAMAS	Hidden. You can set your contact details to be publicly available via the User Area.

Representatives

PONS CONSULTORES DE PROPIEDAD INDUSTRIAL, S.A.

ID	36405	Country	ES - Spain	Correspondence address	917007600
Organisation	n/a	State/county	n/a	PONS CONSULTORES DE	
Legal status	Legal person	Town	Madrid	PROPIEDAD INDUSTRIAL, S.A.	
Type	Association	Post code	28010	Glorieta Rubén Darío, 4	913086103
		Address	Glorieta Rubén Darío, 4	E-28010 Madrid	
				ESPAÑA	
					comunicacioneseuipo@pons.es

Correspondence

	From	Procedure	Filing number	Subject	Date	Actions
		Recordal	015331500	T65XA	26/02/2019	
		Recordal	015331500	Application form and attachment	22/02/2019	
		Recordal	015331500	Letter to the EUIPO	22/02/2019	
		Recordal	015331500	Total/Partial surrender - deficiency/rejection	07/02/2019	
		EUTM	013175278	LSU01 - Information to proprietors of earlier trade mark registrations or applications	01/02/2019	
		Recordal	015331500	Letter to the EUIPO	23/01/2019	
		Recordal	015331500	Total/Partial surrender - deficiency/rejection	22/01/2019	
		Recordal	015331500	Application form and attachment	02/01/2019	

From	Procedure	Filing number	Subject	Date	Actions
Recordal 015283735 H726A - Notification of entry of a change of representative in the Office - Register and database 21/12/2018					
Recordal 015283735 H726A - Notification of entry of a change of representative in the Office - Register and database 21/12/2018					
Showing 1 to 10 of 65 entries					

IR transformation

No data

Seniority

No data

Exhibition priority

No data

Priority

No data

Publications

Bulletin number	Date	Section	Description
2014/182	29/09/2014	A.1	Applications published under Article 44 EUTMR (Article 39 EUTMR before 01/10/2017)
2015/009	15/01/2015	C.2.1	Representative - Change of name and professional address
2016/059	30/03/2016	B.2	Registrations with amendments since the application was published
2019/002	04/01/2019	C.2.2	Representative - Appointment / Replacement of representative
2019/041	28/02/2019	C.3.2	Partial surrender / Declaration under Art.33(8) EUTMR
Showing 1 to 5 of 5 entries			

Cancellation

No data

Recordals

Bulletin number	Date	Section	Filing number	Title	Subtitle
2015/009	15/01/2015	C.2.1	009158026	Representative	Change of name and professional address
2019/002	04/01/2019	C.2.2	015283735	Representative	Appointment / Replacement of representative
2019/041	28/02/2019	C.3.2	015331500	Trade mark	Partial Surrender
Showing 1 to 3 of 3 entries					

Oppositions

Filing number	Date	Grounds	Opponent	Representative	Language	Reference	Status	Extent of opj
002454984	30/12/2014	Identity of marks and G&S Likelihood of confusion	ANDRES LOPEZ E HIJO, S.A.	DAMASO GESTIÓN ASOCIADOS	English	306254-5279/JRO/FB	Closed	Class 29 A fish, poultry and game meat extr preserved dried, baked, cooked and preserved and vegetables, jellies, jams, compotes, eggs, milk milk products Fruit salad Fruit-based snack food Class 30 C coffee extracts and coffee-based preparations coffee substitutes extracts coffee substitute coffee beverages unroasted coffee; ground coffee; decaffeinated coffee; instant coffee; coffee drinks; coffee beverage; coffee

Filing number	Date	Grounds	Opponent	Representative	Language	Reference	Status	Extent of opp
								mixtures; flavoured coffee; ro coffee be. ground co beans; prepared and coffe based beverage; coffee ba drinks; co brewed; c in ground coffee beverage; milk; ice beverage; a coffee b filters in t form of p. bags filled coffee, te. extracts a tea-basec preparati cocoa and preparati having a k of cocoa, chocolate chocolate products, confectio sweets; si natural sweetene

Filing number	Date	Grounds	Opponent	Representative	Language	Reference	Status	Extent of opposition
								bakery products, bread, yeast; pastries; biscuits, confectionery; desserts (vegetable and other); desserts (non cereal); (cereals) predominant; pasta, bakery powder, flour; spices, aromas; flavourings; puddings; edible ice cream products; making ice cream; ices; honey; honey substitute; breakfast cereals, rice; pasta, food products; on rice, flour; cereals, aromas; the form of; cooked dishes; fruit sauce; Class 31 Foodstuffs and vegetable products; animals; foodstuffs;

Filing number	Date	Grounds	Opponent	Representative	Language	Reference	Status	Extent of opposition
								animals, r agricultur horticultu and fores products grains no included i other clas and exclu natural pl and flowe Class 32 E mineral a aerated w and other alcoholic drinks; fr drinks an juices; syr and other preparati for makin beverage; extracts; f nectars, n alcoholic; smoothie

Filing number	Date	Grounds	Opponent	Representative	Language	Reference	Status	Extent of opposition
002453762	18/12/2014	Likelihood of confusion	Boquiol Handels oHG	ORTH KLUTH RECHTSANWÄLTE PARTNERSCHAFTSGESELLSCHAFT MBB	English	306254-5279/JRO/FB	Withdrawn	Class 29 Fish, poultry and game meat extracted and preserved; dried, baked or cooked and preserved; and vegetables; Fruit-based snack food; Class 30 Sweets; yeast; pastries; baking products; flour, spices; rice, pasta; products based on rice, flour, cereals, and the form of the product; cooked dishes; fruit sauce; Class 31 Fruits and vegetables
Showing 1 to 2 of 2 entries								



Appeals

No data

Decisions

	Case number	Type	Case	Legal status	Keywords	Status	Decision date
	Opposition 002454984	Opposition		Article 8(1)(a) CTMR,Article 8(1)(b) CTMR		Reject opposition	15/06/2015
Showing 1 to 1 of 1 entries							

Renewals

No data

Trade mark relations

No data

-Act XI of 1997 on the Protection of Trademarks and Geographical Indications (extract)

Article 1(1) Trademark protection shall be granted for any signs capable of being represented graphically provided that these are capable of distinguishing goods or services from those of other undertakings.

(2) Signs which may be granted trademark protection are in particular:

- (a) words, combination of words, including personal names and slogans,
- (b) letters, numerals,
- (c) figures, pictures,
- (d) two- or three-dimensional forms, including the shape of goods or of their packaging,
- (e) colors, combination of colors, light signals, holograms,
- (f) sound signals, and
- (g) combination of signs under (a) to (f).

Article 2 (1) A sign may not be granted trademark protection if it does not meet the requirements of Article 1.

(2) A sign shall be excluded from trademark protection if:

(a) it is devoid of any distinctive character, in particular if it consists 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 rendering of the service, or other characteristics of the goods or services, or which have become customary in the current language or in the practices of trade;

(b) it consists exclusively of a shape which results from the nature of the goods themselves or which is necessary to obtain a technical result or which gives substantial value to the goods.

(3) A sign shall not be excluded from trademark protection in accordance with paragraph (2)(a) if, either before or after the date of priority, it has acquired a distinctive character.

Article 3 (1) A sign may not be granted trademark protection if:

- (a) it is contrary to public policy or to accepted principles of morality;
- (b) it is liable to deceive consumers as to the nature, quality, geographical origin or other characteristics of the goods or services;
- (c) its registration was applied for in bad faith.

(2) A sign shall be excluded from trademark protection if:

(a) it consists exclusively of State emblems or other emblems of an authority or international organization as defined in the Paris Convention for the Protection of Industrial Property;

(b) it relates to medals, badges, armorial bearings, not covered by subparagraph (a) above, or to official signs and hallmarks indicating control and warranty which are of public interest;

(c) it consists of symbols having a close relation to religious or other beliefs.

(3) Trademark protection shall be granted with the consent of the competent authority to signs of which the emblems defined under paragraph 2 (a) and (b) form only an element.

(4) A sign may not be granted trademark protection if it consists of or contains a geographical indication registered pursuant to this Act or to European Community law. This provision shall apply to goods which do not originate in a geographical area corresponding to the geographical indication or in connection with which the geographical indication cannot be used for any other reason on the basis of the provisions of this Act or of European Community law.

Article 4 (1) A sign may not be granted trademark protection:

(a) with respect to identical goods or services, if the sign with the later date of priority is identical with an earlier trademark;

(b) if because of its identity with or similarity to the earlier trademark and the identity or similarity of the goods or services there exists a likelihood of confusion on the part of the consumers;

(c) with respect to dissimilar goods or services if the sign with the later date of priority is identical with or similar to an earlier trademark having a reputation in the country where the use without due cause of the later sign would take unfair advantage of or be detrimental to the distinctive character or the repute of the earlier trademark.

(2) "Earlier trademark" means a trademark whose registration was applied for with an earlier date of priority or – for the purposes of paragraph (1)(a) and (b) – a sign which has become well-known at an earlier date in the country under the Paris Convention for the Protection of Industrial Property even if that sign is not registered. "Earlier trademark" shall also mean – depending on the registration of the sign – an earlier trademark application.

(3) A sign may not be refused trademark protection if it conflicts with an earlier trademark, which has not been used by the holder in accordance with the provisions of Article 18.

(4) For the purposes of this Act, the likelihood of confusion includes the likelihood of association with the earlier trademark.

Article (5) A sign may not be granted trademark protection:

(a) if it would infringe earlier personal rights of others, in particular a right in a name or of personal portrayal;

(b) if it would conflict with an earlier copyright or industrial property right of others, including conflict with the name of a protected plant variety.

(2) A sign shall not be granted trademark protection

(a) if it has been used effectively in the country without registration where the use of the sign without the consent of the prior user would be contrary to law; and

(b) if, with respect to identical or similar goods or services, it is identical with or similar to a trademark whose protection has lapsed by reason of expiration and less than two years have elapsed since the lapse, unless the earlier trademark had not been used in conformity with the provisions of Article 18.

(3) In determining whether a right, use or expiration is deemed as earlier within the meaning of paragraphs (1) and (2), the priority of the application for registration shall be taken into account.

Article (6) A sign shall be excluded from trademark protection if the representative or agent applies for registration in his own name without the holder's authorization, unless the representative or agent justifies his action.

Article 7(1) A sign may not be refused trademark protection in accordance with Articles 4 and 5 if the holder of the earlier right consents to the registration of the later sign.

(2) A declaration of consent shall be valid if drawn up as a public instrument or a private document providing sufficient evidence.

(3) A declaration of consent may be contested under those provisions of the Civil Code that concern actions for avoidance of a contract by reason of mistake, deception or threat; the declaration may not be withdrawn and may not be replaced by the decision of a Court.

Article 8(1) Trademark protection shall be granted for a sign if

(a) it satisfies the requirements of Article 1 and is not excluded from trademark protection under the terms of Articles 2 to 7 and

(b) the relevant application complies with the requirements laid down by this Act.