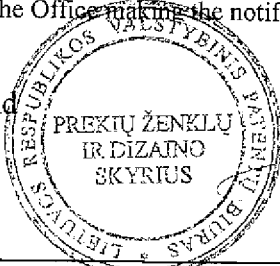



**THE PROTOCOL
RELATING TO THE MADRID AGREEMENT
CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS**

PROVISIONAL REFUSAL OF PROTECTION

Rule 17(1)

I. Office making the notification: STATE PATENT BUREAU OF THE REPUBLIC OF LITHUANIA Kalvarijų g. 3, LT-09310 Vilnius LITHUANIA <div style="text-align: right; padding-right: 50px;">Tel.: (370-5) 27 80 267 Fax.: (370-5) 27 50 723</div>	
II. Number of the international registration:	1 478 300
III. Name of the holder and other indications of the international registration: <div style="display: flex; justify-content: space-between; padding: 5px 0;"><div style="width: 45%;">Name of the holder:</div><div style="width: 55%;">DAIO PAPER CORPORATION</div></div> <div style="display: flex; justify-content: space-between; padding: 5px 0;"><div style="width: 45%;">Verbal elements of the Mark:</div><div style="width: 55%;">elis, fig</div></div> <div style="display: flex; justify-content: space-between; padding: 5px 0;"><div style="width: 45%;">Basic registration:</div><div style="width: 55%;">JP, 07.07.2006, 4967895</div></div>	
IV. Provisional refusal based on an opposition <div style="display: flex; justify-content: space-between; padding: 5px 0;"><div style="width: 45%;"><u>Name and address of the opponent:</u></div><div style="width: 55%;">M.A.J. 31 chemin lateral au chemin de fer F-93500 Pantin (FR)</div></div> <div style="display: flex; justify-content: space-between; padding: 5px 0;"><div style="width: 45%;"><u>Name and address of the representative:</u></div><div style="width: 55%;">Aušra Pakėnienė AAA Law A.Goštauto g. 40B, Verslo centras „Dvyniai” LT-01112 Vilnius Tel.+370 5 252 6676, Fax.+370 5 252 6670</div></div>	
V. <input checked="" type="checkbox"/> Provisional refusal for all the goods and services. <input type="checkbox"/> Provisional refusal for some of the goods: [followed by an indication of the goods and/or services which are affected or are not affected]	
X. Date of the notification of provisional refusal:	31.10.2019
XI. Signature or official seal of the Office making the notification: <div style="display: flex; justify-content: space-between; align-items: center; padding: 10px 0;"><div style="width: 30%;">Head of the Trade Marks and Designs Division</div><div style="width: 30%; text-align: center;"> PREKŲ ŽENKLŲ IR DIZAINO SKYRIUS</div><div style="width: 30%; text-align: center;"></div><div style="width: 10%; text-align: right;">Digna Zinkevičienė</div></div>	

* - if the space available is insufficient, see a continuation sheet

CONTINUATION SHEET

No: 1 of IV

VI. Grounds for refusal [(where applicable, see item VII)]:

- ☒ The mark would infringe rights acquired by third parties resulting from an earlier registration(s)
- ☐ Other grounds.

Opposition filed with the Division of Appeals of the State Patent Bureau on: 25.10.2019 No. PTZ-284

VII. Information relating to an earlier mark:*

Community Trade Marks (copy enclosed):

No 017988306

National registration (extract enclosed):

International registration (copy enclosed):

VIII. Corresponding essential provisions of the Lithuanian Law on Trade Marks [(see text under XII)]:*

Article 8 (1)(2)

IX. Information relating to subsequent procedure:

The proprietor of a mark of international registration against which an opposition has been filed must within a two months period from the date of this notification present a justified reply to opposition. The justified reply should be addressed to the Appeals Division of the State Patent Bureau. It should be presented in Lithuanian language and an address for the correspondence in the territory of the Republic of Lithuania should be indicated. Where the trademark owner is not a resident of the Republic of Lithuania or another member state of the European economic area, neither he has subsidiary or representation registered in the Republic of Lithuania or another member state of the European economic area, the justified reply should be presented through a patent attorney of the Republic of Lithuania. The list of patent attorneys is available on <https://vpb.lrv.lt/en/structure-and-contacts-1/patent-attorneys>. The time limit expires on **31.12.2019**.

XII. Corresponding essential provisions of the Lithuanian Law on Trade Marks:

Article 5. Signs of Which a Mark May Consist

A trade mark may consist of any signs, in particular words, including personal names, or designs, letters, numerals, colours, the shape of goods or of the packaging of goods, or sounds, provided that such signs are capable of:

- 1) distinguishing the goods or services of one undertaking from those of other undertakings;
- 2) being represented on the Register of Trade Marks of the Republic of Lithuania (hereinafter referred to as the Register) in a manner, which enables the competent authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor.

Article 8. Relative Grounds for Refusal or Invalidation of Registration

1. A trade mark shall not be registered or, if registered, shall be declared invalid where the person concerned objects the application or the registration of a mark in accordance with Article 56 or 58 of this Law, if:

1) it is identical with an earlier mark, and the goods and/or services for which the mark is registered are identical with the goods and/or services for which the earlier mark is applied for or is registered;

2) because of its identity with or similarity to the earlier mark and the identity or similarity of the goods and/or services covered by the marks there exists a likelihood of confusion on the part of the public; the likelihood of confusion includes the likelihood of association with the earlier mark;

3) it is identical with or similar to an earlier trade mark irrespective of whether the goods or services for which it is applied for or registered are identical with, similar to or not similar to those for which the earlier trade mark is registered, where the earlier trade mark has a reputation in the Republic of Lithuania or, in the case of an EU trade mark, has a reputation in the European Union and the use of the later trade mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark;

4) an agent or representative, or a patent attorney of the proprietor of the trade mark applies for registration thereof in his own name without the proprietor's authorisation, unless the agent or patent attorney justifies his action;

5) it infringes other earlier rights, in particular:

- a) a right to a name, artistic pseudonym of a known person;
- b) a right of personal portrayal;
- c) a copyright;
- d) an industrial property right.

2. Earlier mark within the meaning of subparagraphs 1, 2 and 3 of paragraph 1 of this Article means:

1) a mark the date of filing of application for registration in the Republic of Lithuania of which is earlier than the date of filing of application for registration of the mark specified in paragraph 1 of this Article, taking account, where appropriate, of the priorities granted or claimed in respect of that mark;

2) a mark the date of registration whereof for the Republic of Lithuania under the Madrid Protocol is earlier than the date of filing of application for registration of the mark specified in paragraph 1 of this Article, taking account, where appropriate, of the priorities granted or claimed in respect of that mark;

3) a EU trade mark with a date of application for registration pursuant to the EU Trade Mark Regulation, which is earlier than the date of application for registration of the trade mark referred to paragraph 1 of this Article, taking account, where appropriate, of the priority claimed or granted;

4) a EU trade mark which claims seniority in accordance with the EU Trade Mark Regulation, from a trade mark referred to in subparagraph 1 or 2 of paragraph 2 of this Article, even when the latter trade mark has been surrendered or allowed to lapse;

5) applications for the trade marks referred to in subparagraphs 1 - 4, subject to their registration;

6) a mark which, on the date of application for registration of the trade mark specified in paragraph 1 of this Article, where appropriate, of the priority claimed in respect of the application for registration of the trade mark, is well known in the Republic of Lithuania.

3. If the person concerned contests the trade mark application or registration in accordance with Article 56 or 58 of this Law, the mark shall not be registered or, if registered, shall be liable to be declared invalid in the cases and to the extent that, pursuant to European Union legislation or the law of the Republic of Lithuania providing for protection of designations of origin and geographical indications when the following conditions are met:

1) an application for a designation of origin or a geographical indication had already been submitted in accordance with European Union legislation or the law of the Republic of Lithuania prior to the date of application for registration of the trade mark or the date of the priority claimed for the application, subject to its subsequent registration;

2) that designation of origin or geographical indication confers on the person the right to prohibit the use of a subsequent trade mark.

4. A mark shall be registered or registration of a trade mark shall not be declared invalid where the proprietor of the earlier trade mark or other earlier right consents to the registration of the later trade mark.

Article 38. Filing of an Application and Application Requirements

2. A representative may also file an application on behalf of an applicant. Foreign natural persons who are not permanent residents of the Republic of Lithuania or any other EU Member State or any other State of the European Economic Area and legal persons of foreign states who do not have a branch office or representative office registered in the Republic of Lithuania or a head office, a branch office or a representative office in any other EU Member State or in any other State of the European Economic Area, shall, through a patent attorney of the

Republic of Lithuania, file applications with the State Patent Bureau and perform all actions relating to the registration of a mark and international mark, including also representation at the Appeals Division.

Article 56. Opposition Procedure

1. Within a period of three months following the publication of the application, the interested persons may object to the application by filing a reasoned written opposition to the Appeals Division in accordance with paragraph 1 of Article 46 of this Law and pursuant to paragraphs 1, 2 and 3 Article 8 of this Law (...)

6. The decision taken by the Appeals Division may be appealed against to the Vilnius Regional Court within three months from the day of adoption thereof.

Article 61. Procedure for Examination of Oppositions and Applications for Declaration of Invalidity or Revocation of the Registration of a Trade Mark at the State Patent Bureau

2. The applicant or proprietor of the contested trade mark, or his representative must, within two months of the date of the opposition notice or the application for a declaration of invalidity or revocation, submit a justified reply. Failure to file a justified reply shall be considered as a refusal to participate in the examination of the opposition or the application for a declaration of invalidity or revocation and shall not prevent the Appeals Division from examining the relevant dispute in the absence of the applicant or proprietor of the contested mark, or his representative.

Article 69. Institutions having Jurisdiction in Disputes relating to Marks

1. The Appeals Division of the State Patent Bureau shall examine appeals in accordance with the mandatory pre-trial dispute resolution procedure against the decisions of the State Patent Bureau referred to in this Law, oppositions and applications for a declaration of invalidity or revocation of the registration of the mark in the manner prescribed by this Law, unless a counterclaim is filed with court for a declaration of invalidity or revocation of the registration of mark in examining the dispute concerning the infringement of the rights of the proprietor of the mark.

2. Vilnius Regional Court shall examine disputes relating to:

- 1) decisions of the Appeals Division of the State Patent Bureau;
- 2) infringement of the rights of the proprietor of the mark;
- 3) invalidation or revocation of the registration of a mark when a counterclaim is filed with court for a declaration of invalidity or revocation of the registration of mark in examining the dispute concerning the infringement of the rights of the proprietor of the mark;
- 4) recognition of the mark as well-known in the Republic of Lithuania;
- 5) European Union trade marks under the EU Trade Mark Regulation.

EUTM file information

elis
017988306

Trade mark information

Name	elis	Filing date	20/11/2018
Filing number	017988306	Registration date	
Basis	EUTM	Expiry date	
Date of receipt	20/11/2018	Designation date	
Type	Figurative	Filing language	French
Nature	Individual	Second language	English
Nice classes	1, 3, 5, 6, 7, 9, 10, 11, 16, 20, 21, 22, 24, 25, 27, 35, 37, 39, 40, 42, 43, 44, 45 (Nice Classification)	Application reference	AVM18-5653EM
		Trade mark status	Application opposed
Vienna Classification	24.15.02, 24.15.21 (Vienna Classification)	Acquired distinctiveness	No

Graphic representation



Goods and services

English (en) ☒

1 Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; Synthetic resins, unprocessed; Unprocessed plastics; Manures; Fire extinguishing compositions; Tempering and soldering preparations; Chemical substances for preserving foodstuffs; Tanning substances; Adhesives used in industry.

3 Bleaching preparations and other substances for laundry use; Cleaning, polishing, scouring and abrasive preparations; Soaps; perfumery; Essential oils; Cosmetics; Hair lotion; Dentifrices.

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Veterinary and sanitary preparations; Dietetic substances adapted for medical use; Baby food; Plasters, materials for dressings; Material for stopping teeth, dental wax; Disinfectants; Preparations for destroying noxious animals; Fungicides; Herbicides.

6 Common metals and their alloys; Metal building materials; Transportable buildings of metal; Materials of metal for railway tracks; Non-electric cables and wires of common metal; Ironmongery and metal hardware, non-electric; Pipes and tubes of metal; Safes; Ores; Containers of metal, other than for household use; Fixed dispensers of metal for towels, hand towels, household linen and toilet linen.

7 Automatic vending machines.

9 Scientific (other than for medical purposes), nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; Apparatus for recording, transmission or reproduction of sound or images; Recording substrates [magnetic]; Phonograph records; Mechanisms for coin-operated apparatus; Cash registers; Calculators; Data processing equipment and computers; Fire-extinguishing apparatus; Protective clothing, in particular high-visibility clothing.

10 Surgical, medical, dental and veterinary apparatus and instruments; Artificial limbs, eyes and teeth; Orthopedic articles; Suture materials; Clothing especially for operating rooms, Operating gloves, Surgical cloths, Surgical drapes, Bed linen for incontinents, including draw-sheets for sick beds.

11 Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes, Perfume and deodorant diffusers, not for personal use, disinfectant dispensers for toilets, Toilet bowls, Disposable toilet seat covers, Water fountains.

16 Paper and cardboard (untreated, semi-finished or for stationery or printing), printed matter; Bookbinding material; Photographs; Stationery; Adhesives for stationery or household purposes; Artists' materials; Paint brushes; Typewriters and office requisites (except furniture); Instructional and teaching material (except apparatus); Plastic materials for packaging (not included in other classes); Printers' type; Printing blocks; Sanitary articles of paper; Paper towels; Hygienic paper.

20 Furniture, mirrors, frames (except for building); Fixed dispensers, not of metal, for towels, hand towels, household linen and toilet linen.

21 Household or kitchen utensils and containers (not of precious metal or coated therewith); Combs and sponges; Brushes (except paintbrushes); Brush-making materials; Articles for cleaning purposes; Steelwool; Unworked or semi-worked glass (except glass used in building); Tableware, except forks, knives and spoons, of glass, porcelain and earthenware, toilet paper, soap and perfume dispensers for household purposes, soap boxes, dispensing containers for hand towels and towels.

22 Ropes (not of rubber and not for rackets or musical instruments), string, fishing nets, nets for camouflage, tents, tarpaulins (neither safety tarpaulins nor pushchair covers), sails; Padding and stuffing materials (except of rubber or plastics); Raw fibrous textile materials, sacks for the packaging, transport and storage of linen.

24 Fabrics for textile use, household linen and table linen, not of paper; Bed and table covers, Textile articles, other than clothing, for household and kitchen purposes.

25 Clothing, footwear (except orthopaedic) and headgear.

27 Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors, except tiling and floor paints; Wall hangings (non-textile).

35 Rental of vending machines; Advertising of all kinds; Business management assistance, business management and organisation consultancy, business management consultancy, business expertise, research and planning in the field of advertising, and rental of advertising space and time; Business information and business enquiries; Consultancy in the field of marketing, advertising and communications; Business management; Sales promotion of goods and services; Promotion and publicity; Dissemination of advertising matter; Arranging of subscriptions to all kinds of information media and telecommunications services, for others; Direct marketing, database marketing, telemarketing; Analysis and reports relating to statistics; Computerized file management; Business information; Processing and analysis of statistics; Advertising, sales promotion, marketing and direct marketing on all kinds of carriers and media; Advertising and marketing relating to the development of new products; Business consultancy relating to the development of new products; Organisation of promotional activities, competitions, tombolas, prize draws for commercial or advertising purposes; Management and development of commercial and advertising events; Business consulting services in the field of electronic commerce; Setting up and management of computer files; Organisation of loyalty programmes; Compilation of statistics; Market studies, Opinion polling, Panels, Opinion polling; Collection of data via computer-based forms or questionnaires; Compilation of information into computer databases; Systemization of information into computer databases; Computerised file management and database services; Computerised file management relating to consumer behaviour; Operation of databases and databanks in the field of advertising, sales promotion (for others) and consumer behaviour; Entry, formatting, compilation and processing of data; Indexing of computer data and indexing of databases; Management consultancy services relating to information technology, in particular relating to databases; Administration, invoicing and settlement of accounts for others; Commercial intermediation services; Placement online and management of catalogues of goods and services for consumers, in particular of online catalogues; Accounting; Presentation on all kinds of communications media of goods and services for sale, rental and maintenance in the following sectors: clothing; bed linen, bath linen, table linen, sanitary, hygiene and cleaning services, treatment of materials and services for providing good and drink.

37 Building construction; Installation and repair of machinery; Repair of tools; Clothing repair; Installation and repair of electrical apparatus and equipment; Repair of sanitary installations; Installation of sanitary equipment; Installation and repair of industrial machinery; Installation and repair of office machines; Installation and repair of drying and lighting apparatus; Cleaning of clothing and other textile articles, laundry, dyeing.

39 Transport, collection, packaging, delivery and storage of goods; Travel arrangement.

40 Treatment of toxic material; Treatment [reclamation] of material from waste; Treatment [reclamation] of material from hazardous products; Cloth treating; Cloth treating.

42 Scientific and industrial research; Computer programming; Online data storage on the internet; Electronic storage and recovery of data.

43 Providing of food and drink and temporary accommodation; Temporary accommodation; Rental of linen and water dispensers.

44 We are a private and website development and design, central reference, rent, use, training and hygiene services.

45 Legal services; Rental of clothing.

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		Address	31 CHEMIN LATÉRAL AU CHEMIN DE FER	FRANCIA	Hidden. You can set your contact details to be publicly available via the User Area.

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