
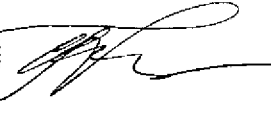


**THE PROTOCOL  
RELATING TO THE MADRID AGREEMENT  
CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS**

**PROVISIONAL REFUSAL OF PROTECTION**

**Rule 17(1)**

<b>I. Office making the notification:</b>  <b>STATE PATENT BUREAU OF THE REPUBLIC OF LITHUANIA Kalvariju g. 3, LT-09310 Vilnius LITHUANIA</b> <div style="text-align: right; padding-right: 50px;"><b>Tel.: (370-5) 27 80 267 Fax.: (370-5) 27 50 723</b></div>	
<b>II. Number of the international registration:</b>	1 480 165
<b>III. Name of the holder and other indications of the international registration:</b> <div style="display: flex; justify-content: space-between; padding: 5px 0;"><div style="width: 60%;">Name of the holder:</div><div style="width: 40%;">DeSokko Limited</div></div> <div style="display: flex; justify-content: space-between; padding: 5px 0;"><div style="width: 60%;">Verbal elements of the Mark:</div><div style="width: 40%;">Natura, fig</div></div> <div style="display: flex; justify-content: space-between; padding: 5px 0;"><div style="width: 60%;">Basic registration:</div><div style="width: 40%;">UA, 25.11.2008, 99608</div></div>	
<b>IV. Provisional refusal based on an opposition</b> <div style="display: flex; justify-content: space-between; padding: 5px 0;"><div style="width: 40%;"><u>Name and address of the opponent:</u></div><div style="width: 60%;">NEKTAR NATURA d.o.o.  Ekslerjeva Ulica 8 SI-1241 Kamnik (SI)</div></div> <div style="display: flex; justify-content: space-between; padding: 5px 0;"><div style="width: 40%;"><u>Name and address of the representative:</u></div><div style="width: 60%;">Edita Ivanauskienė  Advokatės Editos Ivanauskienės kontora A. Goštauto g. 8-228 LT-01108 Vilnius Tel.+370 6 861 1584</div></div>	
<b>V.</b> <input checked="" type="checkbox"/> Provisional refusal for all the goods and services. <input type="checkbox"/> Provisional refusal for some of the goods and services: [followed by an indication of the goods and/or services which are affected or are not affected]	
<b>X. Date of the notification of provisional refusal:</b>	15.11.2019
<b>XI. Signature or official seal of the Office making the notification:</b> <div style="display: flex; align-items: center; justify-content: space-between; padding: 10px 0;"><div style="width: 30%;">Adviser of the Trade Marks and Designs Division</div><div style="width: 30%; text-align: center;"> DIREKTU ŽENKLŲ IR DIZAINO SKYRŲS</div><div style="width: 30%; text-align: right;"> Stela Ivanova</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: 04.11.2019 No. PTZ-285

**VII. Information relating to an earlier mark:\***

Community Trade Marks (copy enclosed):

**No 009253551**

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 **15.01.2020**.

## **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 Invalidity 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.



*Protect your intellectual property in the European Union*

## EUTM file information

NEKTAR NATURA  
009253551

### Trade mark information

Name	NEKTAR NATURA	Filing date	16/07/2010
Filing number	009253551	Registration date	29/09/2011
Basis	EUTM on which IA is based	Expiry date	16/07/2020
Date of receipt	16/07/2010	Designation date	
Date of receipt of International Registrat...	26/04/2013	Filing language	Slovenian
IR number	1198180	Second language	English
Type	Word	Application reference	0060-IL-ZNE001-10
Nature	Individual	Trade mark status	Registered
Nice classes	7, 9, 11, 30, 32, 33, 35, 37, 39, 40 ( Nice Classification )	Acquired distinctiveness	No
Vienna Classification			

Goods and services

English (en)



- 7** Systems for dispensing beverages (machinery, linkages and taps for drawing alcoholic and non-alcoholic beverages); Pressurised apparatus for dispensing non-alcoholic and alcoholic beverages, beer and wine.
- 9** 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; Automatic vending machines and mechanisms for coin-operated apparatus; Cash registers, calculating machines, data processing equipment and computers; Computer aided apparatus for dispensing non-alcoholic and alcoholic beverages, beer and wine; Control apparatus for dispensing beverages; Refractometers; Apparatus for personnel control; Electronic certificates/electronic publications/downloadable through a network (internet).
- 11** Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes; Heating apparatus for dispensing beverages; Electric heating apparatus; Pasteurisers; Beverages cooling apparatus; Cooling installations for liquids; Refrigerating apparatus and machines.
- 30** Tea; Cocoa; Sugar; Spices; Relish; Golden syrup; Ice; Ginger; Edible ices; Cocoa; Cocoa products; Cocoa beverages with milk; Ice for refreshment; Natural or artificial ice; Iced tea; Sea water for cooking; Chocolate-based beverages; Cocoa beverages; Tea based beverages; Relish (condiment); Malt extracts limited to Malt extracts not meant for Coffee and Coffee beverages; Infusions, not medicinal; Thickening agents for cooking; Frozen yogurt (confectionery ices).
- 32** Non-alcoholic aperitifs; Cider (non-alcoholic); Essences for making beverages; Aerated water; Preparations for making aerated water; Ginger ale; Extracts of hops for making beer; Isotonic beverages; Beer wort; Peanut milk (soft drink); Non-alcoholic cocktail mixes; Liqueurs (Preparations for making -); Lemonades; Lithia water; Milk of almonds (beverage); Mineral water (beverages); Mineral and aerated waters and other non-alcoholic drinks; Mineral water (preparations for making -); Non-alcoholic beverages containing fruit; Must; Grape must (unfermented); Table waters; Non-alcoholic drinks, except coffee; Non-alcoholic fruit beverages; Tomato juice beverages; Non-alcoholic drinks made of honey; Whey beverages; Beers; Malt beer; Powders for effervescing beverages; Preparations for making beverages; Kvass; Non-alcoholic fruit extracts; Non-alcoholic fruit nectars; Fruit juices; Sarsaparilla (soft drink); Seltzer water; Syrups and other preparations for making beverages; Milk of almonds; Syrups for lemonade; Syrups for beverages; Malt wort; Sodas; Sorbets [beverages]; Pastilles for effervescing beverages; Waters (beverages); Vegetable juices [beverages]; Non-alcoholic aperitifs; Quality concentrated fruit juices with 20% to 100% fruit.
- 33** Alcoholic beverages (except beers); Alcoholic essences; Fortified wine; Alcoholic fruit drinks; Alcoholic extracts; Aperitifs; Arak (brandy made of rice or sugar cane plant produced in the East); Curacao; Kirsch; Digestives (liqueurs and spirits); Gin; Bitters; Perry; Cider; Anise (liqueur); Anisette (liqueur); Cocktails; Liqueurs; Mead; Peppermint liqueurs; Rice alcohol; Rum; Fruit extracts, alcoholic; Sales of Beer, Supply, Bottling, Delivery, and Small Sized Usage. We also use analytics.
- 35** Advertising; Business management; Business administration; Office functions; Wholesale and retail of non-alcoholic and alcoholic beverages, juices, beer, coffee and foodstuffs; Sale of systems for dispensing beverages (machinery, linkages

and taps for drawing), computer aided apparatus for dispensing beverages, apparatus for personnel control; Sale of beverages (non-alcoholic beverages, concentrates, syrups and other raw materials for beverage production); Wholesale and retail of non-alcoholic and alcoholic beverages, juices, coffee, beers and foodstuffs; Sale of non-alcoholic and alcoholic beverages, juices, coffee, beers and foodstuffs; Catalogue sales of non-alcoholic and alcoholic beverages, juices, coffee, beers and foodstuffs; On-line sale over a computer network (e-commerce) - non-alcoholic and alcoholic beverages, juices, coffee and foodstuffs; Advertising and promotion of sales of goods and services ordered by electronic media (e-shops); Shopping assistance and consultancy over e-shops; Marketing and promotion systems for dispensing beverages (machines, linkages and countertop taps for dispensing alcoholic and non-alcoholic beverages), simple dispensing installations for dispensing non-alcoholic and alcoholic beverages, beers and wine, 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, automatic vending machines and mechanisms for coin-operated apparatus, cash registers, calculating machines, data processing equipment and computers, computerised dispensing installations for dispensing fruit juices, beers and wine, installations for controlling the dispensing of beverages, refractometers, installations for the supervision of bar staff, electronic certificates / certificates downloadable via a computer network (Internet), apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes, heated dispensing installations, electric heating installations, pasteurisers, apparatus for cooling beverages, freezing equipment for liquids, refrigerating apparatus and machines, coffee, tea, cocoa, sugar, spices, flavourings, artificial coffee, treacle, ice, ginger (spice), edible ices, cocoa, cocoa products, cocoa beverages with milk, coffee - unroasted, coffee flavourings, artificial coffee, coffee beverages with milk, ice for refreshment, ice - natural or artificial, iced tea, seawater for cooking, chocolate-based beverages, cocoa-based beverages, coffee-based beverages, tea-based beverages, relish, malt extract for food, infusions - not medicinal, thickening agents for cooking foodstuffs, frozen yoghurt (confectionery ices), aperitifs, non-alcoholic, cider, non-alcoholic, essences for making beverages, aerated water, preparations for making aerated water, ginger ale, extracts of hops for making beer, isotonic beverages, beer wort, peanut milk (soft drink), cocktails, non-alcoholic, preparations for making liqueurs, lemonades, Lithia water, milk of almonds (beverages), mineral water (beverages), mineral water and soda water and other non-alcoholic beverages, preparations for making mineral water, non-alcoholic fruit juice beverages, must, grape must, unfermented, table waters, non-alcoholic beverages, non-alcoholic fruit juice beverages, tomato juice (beverage), non-alcoholic honey-based beverages, whey beverages, beers, malt beer, powders for effervescing beverages, preparations for making beverages, kvass (non-alcoholic beverages), fruits extracts, non-alcoholic, fruit nectars, non-alcoholic; Fruit sauces; Sarsaparilla (soft drink), seltzer water, syrups and other preparations for making beverages, orgeat, syrups for lemonade, syrups for beverages, malt wort, soda water, sherbets (beverages), pastilles for effervescing beverages, waters (beverages), vegetable juices (beverages), aperitifs, non-alcoholic, fruit juice beverages with 20 to 100% fruit content, alcoholic beverages (except beers), alcoholic essences, spirits (beverages), alcoholic fruit beverages, alcoholic extracts, aperitifs, arak, curacao, kirsch, digesters (liqueurs and spirits), gin, bitters, perry, cider, anise (liqueur), anisette (liqueur), cocktails, liqueurs, hydromel (mead), peppermint liqueurs, rice alcohol, rum, alcoholic fruits extracts; Sake, wine, brandy, piquette, whisky, vodka, distilled beverages, advertising, business management, business administration, office functions, wholesale and retail sale of juices, beers, coffee and foodstuffs, sales systems serving alcoholic and non-alcoholic beverages (machines, networks, and bar taps), computer devices for dispensing alcoholic and non-alcoholic beverages, installations for the supervision of staff, dispensers for beverages (non-alcoholic beverages, fruit concentrates, syrups and other raw materials for the manufacturing of beverages), sales of juices, coffee, beers and foodstuffs to wholesalers and retailers, sales of juices, coffee, beers and foodstuffs via traditional means, catalogue sales of juices, coffee and foodstuffs, on-line sales via a computer network (e-commerce) of the following: juices, coffee and foodstuffs, advertising and sales promotion of goods and services, processed via electronic means (e-commerce), assistance and advice on purchases through e-stores, construction, repair, installation and services for the assembly, installation and service systems for the dispensing of alcoholic and non-alcoholic beverages (machines, networks, and bar taps), simple dispensing installations, computerised dispensing installations, installations for the supervision of staff, transport, transport brokerage, packaging and storing of goods, travel arrangement, delivery of goods, delivery of goods by mail order, storage information, transportation information, parcel delivery, packaging of goods, storage of goods, operating canal locks, storage, distribution of beverages, concentrates, syrups for making beverages, providing non-alcoholic beverages and delivery systems to hotels, restaurants, and catering companies, manufacturing of non-alcoholic and alcoholic beverages, manufacturing of fruit and vegetable juices, processed and preserved fruit and vegetables, cocoa production, chocolate and confectionery, production of spices, flavourings and other seasonings, production of homogenised food preparations and dietetic foods, production of spirits, production of mineral waters and non-alcoholic beverages, production and processing of non-alcoholic and alcoholic beverages in HACCP systems (from production to end-user), issuing of certificates regarding construction, construction, repair, installation and services for the assembly, installation and service systems for the dispensing of alcoholic and non-alcoholic beverages (machines, networks, and bar taps), simple dispensing installations, computerized dispensing installations, installations for the supervision of staff, issuing of certificates regarding transport, transport brokerage, packaging and storing of goods, travel arrangement, delivery of goods, delivery of goods by mail order, storage information, transportation information, parcel delivery, packaging of goods, storage of goods, operating canal locks, storage, distribution of beverages, concentrates, syrups for making beverages, providing non-alcoholic beverages and delivery systems to hotels, restaurants, and catering companies; Providing of information in relation to all the aforesaid services included in class 35.

**37** Building construction; Repair; Installation services; Installation and service of systems for dispensing alcoholic and non-alcoholic beverages (machinery, linkage and taps), simple apparatus for dispensing beverages, computer aided apparatus for dispensing beverages, apparatus for personnel control; Authorization of certificates related to all the services included in class 37.

**39** Transport; Transport brokerage; Packaging and storage of goods; Travel arrangement; Delivery of goods; Delivery of mail-order goods; Storage information; Transportation information; Parcel delivery; Packaging of goods; Storage of goods; Operating canal locks; Storage; Distribution of beverages, concentrates, syrup for making beverages; Supplying hotels, restaurants and catering companies with non-alcoholic beverages; Supplying alcoholic and non-alcoholic beverage dispensing systems; Authorization of certificates related to all the services included in class 39.

**40** Production of non-alcoholic and alcoholic beverages; Production of fruit and vegetable juices; Processing and preserving fruit and vegetables; Production of cocoa, chocolate and sugar products; Production of various spices, flavourings and other additives; Production of homogenised food and diet food; Production of spirits; Production of mineral water and non-alcoholic beverages; HACCP system production and processing of non-alcoholic and alcoholic beverages.

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ID	<b>421349</b>	Country	<b>SI - Slovenia</b>	Correspondence address	
Organisation	<b>NEKTAR NATURA d.o.o.</b>	State/county	<b>n/a</b>	NEKTAR NATURA d.o.o. Ekslerjeva Ulica 8 SI-1241 Kamnik ESLOVENIA	Hidden. You can set your contact details to be publicly available via the User Area.
Legal status	<b>Legal entity</b>	Town	<b>Kamnik</b>		
		Post code	<b>1241</b>		
		Address	<b>Ekslerjeva Ulica 8</b>		Hidden. You can set your contact details to be publicly available via the User Area.
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