

MADRID AGREEMENT AND PROTOCOL

PROVISIONAL REFUSAL OF PROTECTION

RULE 17.1) OF THE COMMON REGULATIONS UNDER THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS AND THE PROTOCOL RELATING TO THAT AGREEMENT

I. Office notifying the refusal: **National Center of Intellectual Property**

20, ul. Kozlova, Minsk 220034, Belarus

Telephone (Department of Trademarks): (+375 17) 392 51 97, (+375 17) 272 06 47

Fax: (+375 17) 272 98 34, <http://ncip.by>

II. Number of the international registration: **1 473 743**

III. Name and address of the holder of the international registration:

CROSTALIA TRADING LIMITED

**Totalserve Trust Company Limited, Trust Offices, P.O. Box 3540, Road Town,
Tortola VG1110 (British Virgin Islands).**

IV. Provisional refusal based on an *ex-officio* examination

V. Grounds for refusal:

The trademark is identical to the trademark "Якитори БИЗНЕС МЕНЮ лапша с курицей под пряным соусом настоящие мясные кусочки по-японски, fig." being the object of national registration No. 50939 filed on 2012.03.28 in the name of Obshchestvo s ogranichennoy otvetstvennostyu "King-Lion Fuds" (address: d. 58, ul. Kantemirovskaya, RU-115477 g. Moskva, Russian Federation) for the goods of cl. 30.

The trademark is misleadingly similar to the word trademark in Cyrillic "БИЗНЕС МЕНЮ" being the object of national registration No. 28218 filed on 2005.12.05 for the goods of cl. 30; to the trademark in Cyrillic "Ларман с бараниной БИЗНЕС МЕНЮ НАСТОЯЩИЕ КУСОЧКИ БАРАНИНЫ, fig." being the object of national registration No. 50477 filed on 2012.03.28 for the goods of cl. 30; to the trademark in Cyrillic "БИЗНЕС МЕНЮ ПЛОВ С БАРАНИНОЙ НАСТОЯЩИЕ КУСОЧКИ БАРАНИНЫ, fig." being the object of national registration No. 50478 filed on 2012.03.28 for the goods of cl. 30; to the trademark in Cyrillic "БИЗНЕС МЕНЮ Макароны по-флотски с говядиной На первое, ВТОРОЕ рассчитайся!, fig." being the object of national registration No. 50479 filed on 2012.03.28 for the goods of cl. 30; to the trademark "Терияки БИЗНЕС МЕНЮ Лапша с говядиной под кисло-сладким соусом НАСТОЯЩИЕ МЯСНЫЕ КУСОЧКИ ПО-ЯПОНСКИ, fig." being the object of national registration No. 50940 filed on 2012.03.28 for the goods of cl. 30; all trademarks in the name of Obshchestvo s ogranichennoy otvetstvennostyu "King-Lion Fuds" (address: d. 58, ul. Kantemirovskaya, RU-115477 g. Moskva, Russian Federation).

For the lists of goods and for the reproductions of the above-mentioned trademarks see the annex.

VI. Applicable provisions of the national law (see text under X): **5.1.1.**

VII.

☒ Refusal for all the goods and/or services: **Cl. 30.**

☐ Refusal for the following goods and/or services:

☐ Protection for the following goods and/or services:

VIII. Appeal against the decision of refusal:

a) time limit for requesting appeal: **3 months from the date on which the notification was received by the holder of the international registration;**

b) authority to which request for appeal should be made: **National Center of Intellectual Property (see address under I);**

c) for applicants with permanent location or permanent residence in the territory of foreign states, representation by a patent attorney of the Republic of Belarus is mandatory if international treaties to which the Republic of Belarus is party do not provide otherwise (a list of the registered patent attorneys is available at http://www.belgospatent.org.by/index.php?option=com_content&view=article&id=136&Itemid=54).

IX. Date: **2020.03.13**

Law on Trademarks and Service Marks of the Republic of Belarus of February 5, 1993

(Latest Edition of January 5, 2016)

(Extract)

1. Trademarks and Service Marks

1. Trademarks and service marks (hereinafter referred to as «trademarks») are signs which serve to distinguish the goods, works and/or services (hereinafter referred to as «goods», if not provided for otherwise) of one person from goods of the same type of other persons.

2. Signs which may be registered as trademarks are words including personal names, combinations of colors, letters, numerals, figurative elements, three-dimensional signs including the shape of goods or their packaging as well as combinations of such signs. Other signs may be registered as trademarks in cases defined by the legislative acts of the Republic of Belarus.

3. A trademark may be registered in any color or combination of colors.

2. Legal Protection of Trademarks

3. The right to the trademark is protected by the State. The registration of a trademark shall give rise to the issue of a trademark certificate. The trademark certificate shall attest the priority date of the trademark and the owner's exclusive rights in the trademark in relation to the goods specified in the certificate; it shall contain a representation of the trademark.

4. Absolute Grounds for Refusal of Registration

1. Those signs may not be registered as trademarks:

1.1. that are devoid of any distinctive character;

1.2. that have become the generic designation of products of a particular type;

1.3. that are symbols or terms in common use;

1.4. a dominant position in which are taken by signs and/or indications which are used to designate the kind, quality, quantity, properties, intended purpose or value of the goods, or the time, place or manner of their manufacture or sale;

1.5. that are the shape of the goods or their packaging which results exclusively or mainly from the nature of the goods themselves or which is necessary to obtain a technical result or which gives substantial value to the goods.

2. The signs or indications referred to in subparagraphs 1.1 to 1.3 and subparagraph 1.5 of paragraph 1 of this Article may be incorporated in the trademark as unprotected elements, insofar as they do not take a dominant position in the trademark.

2.1. Conditions on which designations, signs and/or indications take a dominant position are established by the Council of Ministers of the Republic of Belarus.

3. The dispositions stipulated by point 1 of this Article might not be applied to designations which on date of the filing of application for registration of a trademark have actually acquired distinctiveness as a result of use.

4. Those trademarks may not be registered that consist exclusively of signs or indications which constitute armorial bearings, flags or emblems of States, official names of States, flags, emblems or abbreviated or full names of international intergovernmental organizations, official control signs, assay marks or hallmarks indicating control or warranty, or decorations or other honorary insignia, or that are confusingly similar to such signs or indications. Such signs or indications may be included in the trademark as unprotected elements, subject to the consent of the relative competent body or of their owner.

5. Those signs or indications may not be registered as trademarks:

5.1. that are false or liable to mislead the consumer as to the product or its place of origin or its producer;

5.2. that consist in or include an appellation of origin of wines or spirits which is protected under international treaties to which the Republic of Belarus is party, for identifying wines or spirits not originating in the place indicated by the appellation of origin in question;

5.3. that are contrary to public interest, humanitarian principles or morality.

5. Other Grounds for Refusal of Registration

1. Those signs or indications may not be registered as trademarks that are identical or confusingly similar to:

1.1. trademarks that are registered or for which an application for registration in the Republic of Belarus has been filed on behalf of a third party, and which benefit from an earlier priority date, for goods of the same type;

1.2. trademarks of third parties that are protected in the Republic of Belarus by virtue of international treaties to which the Republic of Belarus is party, for goods of the same type;

1.3. trademarks of third parties that are considered to be well known in the Republic of Belarus according to the procedure established by the State Committee on Science and Technology of the Republic of Belarus, for goods of any type.

3. Those signs may not be registered as trademarks for goods of any type that are identical or confusingly similar to an appellation of origin of goods protected in the Republic of Belarus or to a sign filed for registration as an appellation of origin and having an earlier priority date, except in cases where this appellation or a sign confusingly similar thereto is included as an unprotected element in the trademark to be registered in the name of a person having an exclusive right to this appellation, if registration of the trademark is fulfilled in respect of the goods for the distinguishing of which the appellation of origin is registered.

XI. Annexes (tick if necessary)

☒ Reproduction(s) of the presumably conflicting trademark(s) containing a figurative element or having a special graphic representation

☒ List indicating the goods and/or services to which each of the presumably conflicting trademarks is applied

XII. Signature or official seal of the Office sending the notification

Deputy Director General
Aliaksei KURMAN

Head of the Department of Trademarks
Natalia SINISHOVA

Examiner: Verameichyk Alena (+375 17) 272 06 47

NATIONAL REGISTRATION No. 50939

REPRODUCTION OF THE TRADEMARK



The trademark is protected in bright green, light-green, dark green, white, red, black, light brown, dark-brown, beige, brownish orange, sand color and yellow.

LIST OF GOODS

Cl. 30 - лапша с курицей.

NATIONAL REGISTRATION No. 28218

REPRODUCTION OF THE TRADEMARK

LIST OF GOODS

Cl. 30 - ароматизаторы; ароматизаторы [за исключением эфирных масел]; бадьян; бисквиты; блины; бриоши; булки; ванилин [заменитель ванили]; ваниль [ароматическое вещество]; вафли; вермишель; вещества ароматические кофейные; вещества подслащивающие натуральные; вещества связующие для колбасных изделий; вещества связующие для пищевого льда; вода морская [для приготовления пищи]; глюкоза пищевая; горчица; загустители для пищевых продуктов; заменители кофе; заменители кофе растительные; изделия кондитерские для украшения новогодних елок; изделия кондитерские из сладкого теста преимущественно с начинкой; изделия кондитерские мучные; изделия кондитерские на основе арахиса; изделия кондитерские на основе миндаля; изделия макаронные; изделия пирожковые; йогурт замороженный; какао; какао-продукты; каперсы; карамели; каши молочные; киш [пироги-запеканки с мелко нарезанными кусочками сала]; клейковина пищевая; конфеты, в том числе лакричные, мятные; кофе; кофе-сырец; крахмал пищевой; крекеры; крупы пищевые; кукуруза молотая; кукуруза поджаренная; кулебяки; куркума пищевая; кускус; кушанья мучные; лапша; лед для охлаждения; лед натуральный или искусственный; лед пищевой; леденцы; лепешки рисовые; мальтоза; мармелад [кондитерские изделия]; марципаны; масса сладкая молочная для кондитерских изделий (заварной крем); мед;

молочко маточное пчелиное [за исключением используемого для медицинских целей], мороженое, в том числе фруктовое; мука; мюсли; мята для кондитерских изделий; напитки какао-молочные, кофейно-молочные, кофейные, на основе чая, шоколадно-молочные, шоколадные; напитки-какао; настои нелекарственные; овес дробленый; овес очищенный; орех мускатный; пастилки [кондитерские изделия]; патока; перец; петифуры; печенье; пироги; пицца; помадки [кондитерские изделия]; попкорн; порошки для мороженого; пралине; приправы; продукты для размягчения мяса в домашних условиях; продукты зерновые; продукты мукомольного производства, не относящиеся к другим классам; продукты на основе овса; продукты пищевые, содержащие крахмал; прополис; пряники; пряности; пудинги; пудра для кондитерских изделий из сладкого сдобного теста; равиоли; жевательные резинки [за исключением используемых для медицинских целей]; рис; рулет весенний [сырые овощи, завернутые в блин из рисовой муки]; сахар, включенный в данный класс; семя анисовое; сладкое сдобное тесто для кондитерских изделий; сладости; солод; соль для консервирования пищевых продуктов; соль поваренная; соль сельдерейная; спагетти; специи; стабилизаторы для взбитых сливок; сухари, в том числе панировочные; суши; сэндвичи; таблетки дрожжевые [за исключением используемых для лечебных целей]; табуле [блюдо из овощей, гороха, масла и лимонного сока]; такос [пресная кукурузная лепешка с начинкой из мяса и овощей]; тапиока; тесто миндальное; тортилы [маисовые лепешки]; торты фруктово-ягодные; украшения съедобные для кондитерских изделий из сладкого сдобного теста; уксус; ферменты для теста; халва; хлеб; хлеб из пресного теста; хлопья из зерновых продуктов; цикорий; чай; чай со льдом; шоколад; экстракт солодовый; эссенции пищевые [за исключением эфирных эссенций и эфирных масел].

NATIONAL REGISTRATION No. 50477

REPRODUCTION OF THE TRADEMARK



The trademark is protected in blue, light-blue, navy, bright green, green, yellow, white, red, deep red, black, beige, sand color, light brown, brown and brownish orange.

LIST OF GOODS

Cl. 30 - лапша с бараниной, а именно лагман.

NATIONAL REGISTRATION No. 50478

REPRODUCTION OF THE TRADEMARK



The trademark is protected in brown, dark-brown, brownish orange, yellow, orange, red, white, beige, bright green, green, black, deep red and sand color.

LIST OF GOODS

Cl. 30 - плов с бараниной.

NATIONAL REGISTRATION No. 50479

REPRODUCTION OF THE TRADEMARK



The trademark is protected in blue, light-blue, white, red, beige, sand color, pale-yellow, green, dark green, black, grey, ochre and brownish orange.

LIST OF GOODS

Cl. 30 - макароны по-флотски.

NATIONAL REGISTRATION No. 50940

REPRODUCTION OF THE TRADEMARK



The trademark is protected in white, red, black, light brown, dark-brown, yellow, bright green, beige and sand color.

LIST OF GOODS

Cl. 30 - лапша с говядиной.