

MADRID AGREEMENT/MADRID PROTOCOL
CONCERNING THE INTERNATIONAL REGISTRATION OF TRADE MARKS
REFUSAL OF PROTECTION
notified to the International Bureau of the World Intellectual Property Organization (WIPO)
under Article 5 of the Madrid Agreement/Madrid Protocol

The boxes are crossed off when applicable ☒

I.	Office having declared refusal of protection: Deutsches Patent- und Markenamt D-80297 München (Federal Republic of Germany)	Telephone Teleprinter Extension no.	+49 (0)89 2195-0 +49 (0)89 2195-4000 +49 (0)89 2195-4047
II.	No. of the international registration in respect of which protection has been refused: 1 196 024 No. of basic national registration: 2013/73112		
III.	Name and address of the holder of the registration in respect of which protection has been refused: BOSSA TİCARET VE SANAYİ, İŞLETMELERİ TÜRK ANONİM ŞİRKETİ, Güzelevler Mahallesi, Girne Bulvarı, 7. Km., No: 236, Yüreğir/ADANA, TR		
IV.	Provisional/final refusal (see item VIII below)		
V.	Grounds for refusal (earlier opposed trade marks and/or other grounds): – see item X –		
VI.	Applicable sections of the national law: – see item X –		
VII.	☒ Refusal for all products/services. ☐ Refusal for all products/services excepting: ☐ Refusal for products/services as follows: – see item X –		
VIII.	Objection to and legal remedies concerning the decision to refuse protection (<i>please quote the international registration no/cl. 24 in all correspondence</i>): The holder of the trade mark may submit his objections to the present refusal to Deutsches Patent- und Markenamt (address as indicated in item I above) within four months from the date on which the notification of refusal was dispatched by WIPO, exclusively through the agency of a representative (<i>Patentanwalt</i> or <i>Rechtsanwalt</i>) who is authorised and empowered to represent the holder of the trade mark in proceedings before the German Patent and Trade Mark Office, before the Federal Patent Court and in civil litigation affecting this trade mark, as well as to file motions for criminal prosecution. The details of the refusal will be communicated to that representative. During the above time limit, the refusal of protection is provisional. In the absence of objections to the refusal within the time limit of four months, the latter will become final without further notification. Within an additional time limit of one month the holder may, however, file an objection (<i>Erinnerung</i>) together with the fee of EUR 150 for objection. In the absence of an objection refusal shall become final. The special motion (<i>Erinnerung</i>) shall be addressed directly to Deutsches Patent- und Markenamt (address as indicated in item I above) through the agency of a representative (<i>Patentanwalt</i> or <i>Rechtsanwalt</i>) who is authorised and empowered to represent the holder of the trade mark in proceedings before the German Patent and Trade Mark Office, before the Federal Patent Court and in civil litigation affecting this trade mark, as well as to file motions for criminal prosecution.		
IX.	Date of pronouncement of refusal: April 20, 2020		



IR1196024

X. (Title and date of the applicable national law)

Extract from the Trade Mark Law

Version of 19/10/2013, Section 96 updated

Absolute obstacles to protection

8. - (1) Signs eligible for protection as a trade mark within the meaning of section 3 which cannot be depicted graphically shall be excluded from registration.
- (2) The following trade marks shall be excluded from registration
1. those which are devoid of any distinctive character for the goods or services,
 2. which consist exclusively of signs or indications which may serve, in the course of trade, to designate the nature, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the services or to designate other characteristics of the goods or services,
 3. which consist exclusively of signs or indications which have become customary in the current usage or in the bona fide and established practices of the trade to designate the goods or services,
 4. which are of such a nature to mislead the public, in particular with regard to the nature, the quality or the geographical origin of the goods or services,
 5. which are contrary to public policy or to accepted principles of morality,
 6. which contain state coats of arms, state flags or other sovereign state symbols or coats of arms of a domestic locality or of a domestic municipal or other local authority association,
 7. which contain official certification marks or hallmarks which are excluded from registration as a trade mark in accordance with a notice made by the Federal Ministry of Justice in the Federal Law Gazette (BGBl.),
 8. which contain coats of arms, flags or other symbols, seals or designations of international intergovernmental organisations which are excluded from registration as a trade mark in accordance with a notice made by the Federal Ministry of Justice in the Federal Law Gazette,
 9. the use of which can evidently be prohibited in the public interest in accordance with other provisions, or
 10. which have been applied for in bad faith.
- (3) Subs. 2 Nos. 1, 2 and 3 shall not apply if, prior to the point in time of the decision on registration, the trade mark has become established in the trade circles involved as a result of its use for the goods or services for which the application was filed.
- (4) Subs. 2 Nos. 6, 7 and 8 shall also be applied if the trade mark contains the imitation of a sign listed there. Subs. 2 Nos. 6, 7 and 8 shall not be applied if the applicant is empowered to include in the trade mark one of the signs listed therein, even if it can be confused with one of the other signs listed therein. Subs. 2 No. 7 shall furthermore not be applied if the goods or services for which the trade mark application was filed are neither identical with nor similar to those for which the certification mark or hallmark has been introduced. Subs. 2 No. 8 shall further not be applied if the trade mark applied for is not suitable to create among the public the incorrect impression of a connection with the international intergovernmental organisation.

Trade marks that have been filed or registered as relative obstacles to protection

9. - (1) The Registration of a trade mark may be cancelled
1. if it is identical to a trade mark applied for or registered which has older seniority and the goods or services for which it was registered are identical with the goods or services for which the trade mark with older seniority was filed or registered,
 2. if the likelihood of confusion exists, including the likelihood of association between the trade marks, for the public because of its identity with or similarity to a trade mark applied for or registered with older seniority and owing to the identity or similarity of the goods or services covered by both trade marks, or
 3. if it is identical with or similar to a trade mark applied for or registered with older seniority and has been registered for goods or services which are not similar to those for which the trade mark with older seniority has been filed or registered, if the trade mark with older seniority is a trade mark which has a reputation in this country and the use of the registered trade mark would without due cause take unfair advantage of, or be detrimental to, the distinctive character or the repute of the trade mark which has a reputation.
- (2) Applications for trade marks shall only constitute an ground for refusal within the meaning of subs. 1 if they are registered.

Opposition

42. - (1) Within a three-month period after the date of the publication of the registration of the trade mark in accordance with section 41, the proprietor of a trade mark or of a commercial designation with older seniority may lodge an opposition against the registration of the trade mark.
- (2) The opposition may only invoke that the trade mark may be cancelled
1. because of a trade mark applied for or registered with older seniority in accordance with section 9,
 2. because of a well-known mark with older seniority in accordance with section 10 in conjunction with section 9,
 3. because of its registration for an agent or representative of the trade mark proprietor in accordance with section 11, or
 4. because of a trade mark not registered with older seniority in accordance with section 4 No. 2 or of a commercial designation with older seniority in accordance with section 5 in conjunction with section 12.
- (3) (repealed)

Objection of insufficient use, decision on the opposition

43. - (1) If the opposition has been lodged by the proprietor of a registered trade mark with older seniority, he/she shall, if the other party disputes the use of the trade mark, make a plausible case that he/she, within the last five years prior to the publication of the registration of the trade mark which is targeted by the opposition, has been used in accordance with section 26 insofar as it has been registered for at least five years at this point in time. If the period of five years of non-use ends after the publication of the registration, the opponent, if the other party disputes the use, must make a plausible case that the trade mark has been used in accordance with section 26 within the past five years prior to the decision on the opposition. Only those goods or services shall be taken into consideration in the decision with respect to which a plausible case has been made for use.
- (2) If the examination of the opposition reveals that the trade mark is to be cancelled for all or part of the goods or services in respect of which it is registered, the registration shall be cancelled in full or in part. If the registration of the trade mark cannot be cancelled, the opposition shall be refused.
- (3) If the registered trade mark is to be cancelled because of one or several trade marks with older seniority, the proceedings on further objections may be suspended until a decision has been handed down with legal force on the registration of the trade mark.
- (4) Section 52 subs. 2 and 3 shall be applied mutatis mutandis in the event of cancellation in accordance with subs. 2.

Domestic representative

96. - (1) Any person who has neither their residence nor principal place of business nor an establishment in Germany may participate in the proceedings before the German Patent and Trade Mark Office or the Federal Patent Court which are regulated under this Act and assert the rights deriving from a trade mark only if he has appointed as his representative a lawyer or patent attorney who is authorised and empowered to represent him in proceedings before the German Patent and Trade Mark Office, before the Federal Patent Court and in civil litigation affecting this trade mark, as well as to file motions for criminal prosecution.
- (2) The place where a representative appointed pursuant to subsection (1) has his commercial premises shall be deemed, within the meaning of section 23 of the Code of Civil Procedure, to be the place where the asset is located; if there are no such commercial premises, the place where the representative is residing in Germany shall be decisive or, if there is no such place, the place where the German Patent and Trade Mark Office has its seat.
- (3) The legal termination of the appointment of a representative in accordance with subsection (1) shall not become effective until the German Patent and Trade Mark Office or the Federal Patent Court has been informed of both the termination of this appointment and the appointment of another representative.

Application of the provisions of this Act; language

107. (1) The provisions of this Act shall be applied mutatis mutandis to the international registration of trade marks in accordance with the Madrid Agreement Concerning the International Registration of Marks (Madrid Agreement on Marks) carried out through the intermediary of the Patent Office or whose protection covers the territory of the Federal Republic of Germany unless provided otherwise in this Chapter or in the Madrid Agreement on Marks.
- (2) All and any applications, as well as other communications in the proceedings for international registration and the list of goods and services, shall be submitted in either French or English, at the choice of the applicant.

Opposition

114. - (1) The publication of the registration (section 41) for internationally-registered trade marks shall be substituted by publication in the Information Notice published by the International Bureau of the World Intellectual Property Organisation.
- (2) The time limit to lodge the opposition (section 42 subs. 1) against the granting of protection for internationally-registered trade marks shall commence on the first day of the month following the month stated as the issue month of the edition of the Information Notice containing the publication of the internationally-registered trade mark.
- (3) Refusal of protection shall take the place of the cancellation of the registration (section 43 subs. 2).

Extract from the Trade Mark Ordinance version of 11 May 2004

Section 46 Refusal of Protection

(1) Where protection is, in full or in part, refused to an international registration the protection of which has been extended to the territory of the Federal Republic of Germany under Article 3^{ter} of the Madrid Agreement or under Article 3^{ter} of the Protocol Relating to the Madrid Agreement, and where this refusal is communicated to the International Bureau of the World Intellectual Property Organization to be transmitted to the proprietor of the international registration, the time limit for appointing a representative in Germany shall, to avoid final refusal, be fixed to four months from the date on which notification of refusal was dispatched by the International Bureau of the World Intellectual Property Organization.

(2) Where the refusal of protection has become final because the proprietor of the international registration has failed to appoint a representative in Germany, a special motion (*Erinnerung*) or an appeal from the refusal shall be filed with the German Patent and Trade Mark Office within one further month after the time limit under subsection (1). Instructions about the proprietor's right to appeal shall be attached to the refusal. Section 61(2) of the Trade Mark Act shall apply *mutatis mutandis*.

still X.	Supplementary box grounds for refusal – <i>item V</i> – International Trade Mark 1 196 024 The company (companies) mentioned below has (have) lodged opposition to the admission of the trade mark because of earlier national or international application or registration of its (their) trade mark(s) listed below (Sec. 119, 124, 114, 42 Trade Mark Law; Art. 5 Protocol Relating to the Madrid Agreement; Art. 6 quinquies B Paris Convention): 1 HUGO BOSS Trade Mark Management GmbH & Co. KG 1008283 BOSS 72555 Metzingen, DE 2 HUGO BOSS Trade Mark Management GmbH & Co. KG 301490643 BOSS 72555 Metzingen, DE <u>Note:</u> If no representative has been appointed within the provisional time limit of the first four months, this fact constitutes in itself a ground for refusal after the notification concerning the refusal of protection has become final (Sec. 119, 96 Trade Mark Law).	
XII. ☒ 1 reproduction of 1 opposed trade mark including a figurative element or a special graphic design ☒ List specifying the registration number as well as the relevant goods/services in respect of each opposed trade mark ☐ List of professional representatives ☐ List of goods/services		XI. Signature or official seal of the administration which pronounced the refusal 

Stammdatenauszug



1 008 283 / 25

Markeninformationen

	Altes Aktenzeichen	B64598
	Aktenzustand	Marke eingetragen
	Anmeldung eingegangen	07.12.1979
151	Anmeldetag	07.12.1979
	Eintragung	25.09.1980
	Veröffentlichung	31.10.1980
	Schutzbeginn	01.01.2020
	Schutzzende	31.12.2029

Markenwiedergabe

550	Markenform	Wortmarke
551	Markenkatgorie	Individualmarke
541	Markentext	BOSS
531	Bildklassen	

Zeitränge

Adressen

732 Inhaber	740 Vertreter	750 Zustelladresse
15197719	880302	880302
HUGO BOSS Trade Mark Management GmbH & Co. KG 72555 Metzingen, DE	Dennemeyer & Associates S.A. 80336 München, DE	Dennemeyer & Associates S.A. Poccistr. 11 80336 München

Lizenzen

Waren- und Dienstleistungsverzeichnis - Elsa

511 WDVZ 25 (LKL)

25: Bekleidungsstücke (einschließlich gewirkter und gestrickter) für Damen, Herren und Kinder; Strümpfe; Accessoires, nämlich Schals, Kopftücher, Halstücher, Schultertücher und Einstecktücher; Krawatten, Gürtel, Kopfbedeckungen; Schuhe

Verfahrensdaten

Umschreibungsverfahren

Abschluss	21.12.1999 – Umschreibung abgeschlossen
Wirksamkeitsdatum	14.11.1999
Umschreibungsart	

731 Anmelder	740 Vertreter	750 Zustelladresse
3652297	262994	136010296

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PARTNER Patentanwälte
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Umschreibungsverfahren

Abschluss

01.12.2004 – Umschreibung abgeschlossen

Wirksamkeitsdatum

05.11.2004

Umschreibungsart

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Umschreibungsverfahren

Abschluss

22.01.2013 – Umschreibung abgeschlossen

Wirksamkeitsdatum

02.01.2013

Umschreibungsart

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Umschreibungsverfahren

Abschluss

01.11.2013 – Umschreibung abgeschlossen

Wirksamkeitsdatum

04.10.2013

Umschreibungsart**731 Anmelder**~~15197719~~~~HUGO BOSS Trade Mark
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72555 Metzingen, DE~~**740 Vertreter**~~262994~~~~Hoeger, Stellrecht & Partner
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142095567

DENNEMEYER & ASSOCIATES S.A.
Bavariastr. 7
80336 München**Umschreibungsverfahren****Abschluss**

11.02.2014 – Umschreibung abgeschlossen

Wirksamkeitsdatum

30.01.2014

Umschreibungsart**731 Anmelder**~~15197719~~~~HUGO BOSS Trade Mark
Management GmbH & Co. KG
72555 Metzingen, DE~~**740 Vertreter**~~880302~~~~Dennemeyer & Associates S.A.
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Dennemeyer & Associates S.A.
Poccistr. 11
80336 München**Verbundene IR-Marken**

IR 456 092**Registrierungsdatum**

09.10.1980

Aktenzustand

Aktiv

WIPO-Status

Registriert

Stammdatenauszug


301 49 064.3 / 23

Markeninformationen

	Aktenzustand	Marke eingetragen
	Anmeldung eingegangen	16.08.2001
151	Anmeldetag	16.08.2001
	Eintragung	17.09.2001
	Veröffentlichung	18.10.2001
	Schutzbeginn	01.09.2011
	Schutzzende	31.08.2021
	Weitere Angaben	Beschleunigte Prüfung § 38

Markenwiedergabe

550	Markenform	Wortmarke
551	Markenkatgorie	Individualmarke
541	Markentext	BOSS
531	Bildklassen	

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Lizenzen

Waren- und Dienstleistungsverzeichnis - Elsa

510 WDVZ 23 (LKL)

Klassen: **23**, 24 und 26

Ungruppierte Garne und Fäden für textile Zwecke; Textilwaren, nämlich Textilstoffe, Gardinen;
Begriffe: Rollos, Haushaltswäsche, Tisch- und Bettwäsche, Badewäsche, Reisedecken,
Taschentücher; Kurzwaren, soweit in Klasse 26 enthalten; Spitzen und Stickereien,
Bänder und Schnürbänder; Klettbänder; Knöpfe, Haken und Ösen, Druckknöpfe,
Gürtelschließen, Kleiderschließen; Reißverschlüsse und Schnallen; Nadeln;
Kragenstäbchen, Schulterpolster, Anstecker, Broschen als Kleidungszubehör

Verfahrensdaten

Widerspruchsverfahren

Abschluss	17.09.2001 – Marke ohne Widerspruch eingetragen
Wirksamkeitsdatum	17.09.2001

Umschreibungsverfahren

Abschluss 01.12.2004 – Umschreibung abgeschlossen
Wirksamkeitsdatum 05.11.2004
Umschreibungsart

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Umschreibungsverfahren

Abschluss 22.01.2013 – Umschreibung abgeschlossen
Wirksamkeitsdatum 02.01.2013
Umschreibungsart

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Abschluss 01.11.2013 – Umschreibung abgeschlossen
Wirksamkeitsdatum 04.10.2013
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Umschreibungsverfahren

Abschluss 11.02.2014 – Umschreibung abgeschlossen

Wirksamkeitsdatum 30.01.2014

Umschreibungsart

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Verbundene IR-Marken

IR 776 444

Registrierungsdatum 30.01.2002

Aktenzustand Aktiv

WIPO-Status Registriert