

MADRID AGREEMENT AND PROTOCOL
PROVISIONAL REFUSAL OF PROTECTION

Rule 17(1)

I. Office making the notification: FEDERAL SERVICE FOR INTELLECTUAL PROPERTY (ROSPATENT) 30-1, Berezhkovskaya nab., 125993, Moscow, G-59, GSP-3, Russian Federation Fax: +7 (495) 531-63-53 / phone: +7 (499) 240-60-15
II. Number of the international registration: 1128501
III. Name of the holder: Comité International Olympique
IV. Reproduction of the mark: OLYMPIC
V. Provisional refusal based on an ex officio examination
VI. PARTIAL provisional refusal concerning SOME of the goods and/or services. Following goods and/or services are NOT affected by refusal: Cl. 01: "Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; fertilizers; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives for industrial purposes; sensitized films, unexposed; synthetic resins; thermoplastic and thermosetting synthetic resins and organic compounds for molding, for general use in industrial processes; intermediate chemicals; organosilicon compounds, namely polysiloxanes and silanes in the form of resins, pastes, fluids, elastomers, vulcanization and acceleration products; anti-foaming agents; catalysts for paints; chemicals for development and setting of x-ray films and other chemicals in connection with the development of said films; phosphorescent substances; chemical substances used as nuclear fission materials; fuel for nuclear reactors; fused quartz in various forms, such as disks, ingots, rods and tubes for general use in industrial processes; adhesive materials for use in industry; polycrystalline alumina ceramic for general use in industrial processes; brazing and soldering fluxes and products; thermoplastic and thermosetting adhesives; chemicals, biochemicals and reagents for use in industry, science and research; chemical reagents, kits and products for analysis or diagnosis for scientific purposes, namely chemicals for cell culture and separation, purification of nucleic acid, nucleotides, florescent nucleotides, oligonucleotides, peptides, proteins, amino acids, organic molecules and markers for DNA/RNA synthesis; luminescence reagents; reagents for gene expression quantifying; reagents for polymerase chain reaction processes; reagents for rolling circle amplification processes; reagents for DNA cloning and vectors, enzymes for modification and restriction; reagents for labeling, sequencing and fractal analysis of nucleic acids and proteins and customized synthesis; reagents for recombinant protein purification and expression; chromatography media; reagents for electrophoresis, biocomputing, spectrophotometry and

fluorometry; radiochemical products for scientific research; reagents for scintillation proximity assay; tests for high data rate analysis for producing medicines; reagents for high-resolution laser microscopy, fluoroscopic microscopy and confocal microscopy; specialized chemicals for use in industry, science and research; gases and gas mixtures for use in industry, science and research; chemical substances and products for manufacture of pharmaceutical products, diagnostic products and substances; chemical testing reagents, saline solution and paper coated with reagents, all for scientific use and for use in laboratories; fissile chemicals for scientific research; radioactive isotopes and elements for use in industry, science and research; radioactive sources and norms for radiographic technology; radioactive sources for non-destructive testing, purification and sterilization technology; radionuclides for scientific research; chemical compounds and chemicals for treatment of water supply systems, wastewater treatment systems, cooling water circuits, boiler water and steam generating systems, boiler condensate systems, liquid separation systems, systems for water purification and dehydration in aqueous systems, conditioning systems, gas purification systems, industrial process systems, fuel treatment systems, hydrocarbon and gas treatment systems, petrochemical systems and gas and oil treatment systems, pulp and paper making systems, metal and plastic coating systems, metal treating systems; chemicals, namely chemical additives for gasoline, additives for heating oil and additives for improving the efficiency of turbine engine fuel; bags with chemically treated granular materials for absorbing water to be placed in fuel tanks; testing kit comprising reagents for determining the presence of algae and active organic organisms in diesel; bacterial cultures and nutritive elements for treating sludge and wastewater; polymeric chemicals for dispersing particles in steam production equipment; chemicals and chemical compounds used as anti-fouling and demulsifying agents in operations for producing coke and metallurgy-derived products; chemicals, catalysts, plastic semi-processed goods used as materials, filters for removing acid gases, untreated plastics, crystal whiskers and diamond gray; radiopharmaceuticals for scientific use and for research; polymeric membrane materials for liquid separation."

Cl. 02: "Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists; corrosion inhibitors in the form of a coating for use in the metal finishing industry, namely an acid aqueous product for final rinsing; corrosion inhibitors in the form of a coating for cooling water circuits; corrosion inhibitors in the form of a coating, namely resinous coatings for masonry and metal surfaces; covering materials, etching liquids; toner cartridges for printers; ink cartridges for printers; toners, toners for copiers, toners for facsimile machines."

Cl. 03: "Bleaching preparations and other substances for laundry use; cleaning, polishing, degreasing and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices; cleaning preparations containing chemicals and chemical compounds for cleaning steel, aluminum, mixed and galvanized metal surfaces for general industrial use for manufacturing goods of metal; cleaning agents containing chemicals and chemical compounds for industrial use for removing contaminants in industrial process systems; paint stripping preparations containing chemicals and chemical compounds for removing paint from equipment surfaces in spray-painting booth operations."

Cl. 05: "Plasters, materials for dressings; material for dental fillings and dental impressions; disinfectants; pesticides; fungicides, herbicides."

Cl. 19: "Non-metallic building materials; rigid pipes, not of metal, for building; asphalt, pitch and bitumen; transportable buildings, not of metal; monuments, not of metal; thermoplastic building materials, namely thermoplastic molded and extruded materials used as substitutes for wood, metal or glass, for supporting or covering; doors (not of metal), rain gutters, ceiling panels, folding doors, wooden floors, roofing tiles, prefabricated houses, laminates, connecting tracks, steps (ladders) not of metal, building materials with soundproofing properties; non-metallic roofs, with solar cells; plastic panels for building; thermoplastic materials used as building materials for insulation, covering (roofing) and glazing; water pipes made of PVC (polyvinyl chloride)."

Cl. 25: "Clothing, footwear, headgear."

Cl. 37: "Construction; repair; installation services; replacement, overhaul and maintenance of power plants, motors and engines, turbines, wind turbines and apparatus, equipment and instruments for energy and electricity production and their parts, components and accessories; installation, maintenance and repair of compressors and pumps, namely machines, turbo-expanders, fuel pumps and fuel distribution equipment, CNG refueling equipment, gas turbines, steam turbines, air-cooled heat exchangers, steam condensers, thick-wall reactors and tubular reactors; maintenance and repair of gas and oil pipelines; drilling and pumping of oil and gas; drilling for crude oil; installation of tubes and pipelines for drilling of oil wells; rental of tools for drilling oil and gas wells; remote monitoring, diagnosis, repair and maintenance for the repair and maintenance of airplane engines, turbines, electrical equipment, medical equipment, locomotives, including parts and accessories of all the aforesaid goods; rental of construction equipment; chemical cleaning of glass-coated reactor vats used in the pharmaceutical and chemical treatment industries; maintenance of heat transfer systems and of condensers; maintenance and repair of equipment with computerized cooling systems, repair and maintenance of electrical equipment, apparatus, instruments and machines; maintenance and repair in the gas and oil field; services relating to installation of point-of-sales terminals in stores; computer maintenance services; installation and repair of electrical appliances; repair of radio receivers and television receivers; repair and maintenance of electric apparatus and instruments for communication; repair and maintenance of electric household appliances; repair and maintenance of electric lighting apparatus; repair and maintenance of electric apparatus for distribution and control; repair and maintenance of electric motors; repair and maintenance of machines and instruments for measuring and/or testing; repair and maintenance of medical apparatus and instruments; repair and maintenance of machines and tools for shaping metals; repair and maintenance of cooking apparatus; repair and maintenance of automatic vending machines; repair and maintenance of water purification apparatus; repair and maintenance of musical instruments; repair and maintenance of watches and clocks; repair and maintenance of gas-fired water heaters for household use; repair and maintenance of bathtubs; repair of toilets with water points; installation, maintenance and repair of computer hardware; repair and maintenance of air-conditioning apparatus; installation, maintenance and repair of office equipment and apparatus; installation, maintenance and repair of machinery equipment; repair of vehicles; repair and maintenance of computers; repair and maintenance of electronic printers; repair of telephones; electricity works; telecommunication equipment; installation, maintenance and repair of compressors, pumps, namely, machines, turbo-expanders, fuel pumps and fuel distribution equipment, CNG refueling equipment, gas turbines, steam turbines, air-cooled heat exchangers, steam condensers, thick-wall reactors and tubular reactors; repair and maintenance of gas and oil wells."

VII. Grounds for refusal

Absolute grounds: The following term "repair and maintenance of electric apparatus and instruments for communication" repeats in the list of services in class 37. We inform you that the duplicates (reiterations) of terms in the list of services is deemed as a technical error in accordance with the Civil Code of the Russian Federation. The duplicate (reiteration) will be deleted in the list of services in the Final decision following by provisional refusal after time limit expiring (six month). If you do not agree with the deletion of duplicate you have to present your response with arguments through a trademark attorney registered on the territory of the Russian Federation.

Relative grounds

Earlier conflicting rights have been found, e.g. identical or confusingly similar mark and/or application and/or appellation of origin and/or industrial design:

Information relating to an earlier national application: Application number 2019728739; Filing date 17.06.2019; Name and address of the applicant Obchtchestvo s ogranitchennoi otvetstvennosty "BIOTEK" 127238, Moskva, Lineiny pr-d, 8, pomechtchenie 1, etaj 1, komnaty 1-7 (Russian Federation).

Information relating to an earlier national application: Application number 2019728740; Filing date 17.06.2019; Name and address of the applicant Obchtchestvo s ogranitchennoi otvetstvennosty "BIOTEK" 127238, Moskva, Lineiny pr-d, 8, pomechtchenie 1, etaj 1, komnaty 1-7 (Russian Federation).

VIII. Corresponding essential provisions of the applicable law [(see text under XII and Annex 1)]:

1483(6)(1) 1497(3)

IX. Information relating to subsequent procedure:

(i) TIME LIMIT for submitting your response and requesting review: **SIX (6) MONTHS** from the date of the notification of provisional refusal indicated under X. Please note that the extension of the time period established for response is NOT permitted.

(ii) Authority to which such request for review or appeal should be made: **Federal Service for Intellectual Property (ROSPATENT)**

(iii) Indications concerning the appointment of a representative:

Under Article 1247 of Part IV of the Civil Code of the Russian Federation "citizens permanently residing out of the territory of the Russian Federation and foreign legal entities shall exercise proceedings with the federal executive authority for the intellectual property through **patent attorneys**, registered by this federal authority, unless otherwise provided for by an international treaty of the Russian Federation".

Information Search for Russian Patent Attorneys: http://www.fips.ru/sitedocs/patpov_en.htm

X. Date of the notification of provisional refusal: **21/04/2020**

XI. Signature of the Office making the notification:



Inozemtseva Natalya

XII. Corresponding essential provisions of the applicable law:

Civil Code of the Russian Federation (as amended up to Federal Law No. 35-FZ of March 12, 2014)

(for excerpts see Annex 1)

Annex 1

**Civil code of the Russian Federation
(excerpts)****Article 1477. The Trademark and the Service Mark**

1. An exclusive right certified by a trademark certificate (Article 1481) is recognized for the trademark, i.e. a designation serving for individualizing goods of legal entities or individual entrepreneurs.
2. The rules of the present Code concerning trademarks are applicable to service marks, i.e. to designations serving for individualizing the works or services performed/provided by legal entities or individual entrepreneurs respectively.

Article 1479. The Effect of Exclusive Right to a Trademark on the Territory of the Russian Federation

An exclusive right to a trademark registered by the federal executive governmental body charged with intellectual property matters is effective on the territory of the Russian Federation as well as in the other cases envisaged by an international treaty of the Russian Federation.

Article 1482. The Types of Trademarks

1. Word, image, 3-dimensional and other designations or combinations thereof may be registered as trademarks.
2. A trademark may be registered in any color or in any color-combination.

Article 1483. Grounds for Refusing State Registration to a Trademark

1. No trademark state registration shall be granted to designations not having a distinguishing capability or composed only of elements:

- 1) that have come into general usage as designations for goods of a certain kind;
- 2) being generally-accepted symbols and terms;
- 3) that characterizes goods, for instance indicating their kind, quality, quantity, properties, intended purpose, value, and the time, place and method of their manufacture or sale;
- 4) representing a form of goods that is defined exclusively or mainly by the properties or intended purpose of the goods.

The said elements may be included in a trademark as non-protected elements, unless they dominate therein.

- 1.1. The provisions of paragraph 1 of this article are not applicable to designations which:

- 1) have acquired a distinctive capability as the result of the use thereof;
- 2) consist only of the elements referred to in subparagraphs 1 - 4 of paragraph 1 of this article and forming a combination that has the distinctive capability.

2. No trademark state registration shall be granted to designations that are related to objects that are not subject of legal protection in accordance with Article 1231.1 of the present Code, or that are confusingly similar to them.

3. No trademark state registration shall be granted to designations which are or comprise elements:

- 1) which are false or capable of misleading the consumer concerning goods or the manufacturer of goods;
- 2) which conflict with the public interest and with humanity and moral principles.

4. No trademark state registration shall be granted to designations identical or similar to the extent of confusion with the official names and images of especially-precious objects of cultural heritage of the peoples of the Russian Federation or objects of world cultural or natural heritage, and also with images of cultural valuables preserved in collections, collected items and stocks if registration is sought in the names of persons not being owners without the consent of the owners or persons authorized by the owners for these designations to be registered as trademarks.

5. In accordance with an international treaty of the Russian Federation, no trademark state registration shall be granted to designations which are or which comprise elements protected in a member state of that international treaty as designations allowing identification of wines or alcoholic beverages as originating from its territory (produced within the borders of a geographical object of that state) and having a special quality, reputation or other characteristics predominantly defined by the origin thereof, if the trademark is intended for designating wines or alcoholic beverages not originating from the territory of the given geographical object.

6. No trademark registration shall be granted to designations identical or confusingly similar with:

1) other persons' trademarks, which were applied for registration (article 1492) with respect to similar goods and having an earlier priority, if the application for state registration of the said trademark has not been withdrawn, deemed withdrawn or no decision has been taken with respect to the refusal in its state registration;

2) other persons' trademarks protected in the Russian Federation, including under an international treaty of the Russian Federation for similar goods and having an earlier priority;

3) other persons' trademarks that have been recognized in the procedure established by the present Code as well-known trademarks in the Russian Federation, in respect of similar goods from earlier date than the priority of the claimed designation.

The registration of a designation as trademark for similar goods confusingly similar to any of the trademarks indicated in sub-points 1 and 2 of the present point is allowed with the consent of the right holder provided that such a registration shall not cause confusion to a consumer. The consent can not be withdrawn by the right holder.

The provisions provided by the fifth paragraph of this point shall not apply in respect of designations confusingly similar to collective marks.

7. No trademark registration shall be granted to designations identical or confusingly similar to an appellation of origin of goods, protected in accordance with the present Code, as well as to a designations, that were applied for registration as such until the priority date of the trademark, except for the case when such an appellation or a designation confusingly similar to it is included as a non-protected element into a trademark registered in the name of a person having the exclusive right for such an appellation, if the registration of the trademark is carried out with respect to the same goods for the individualization of which the appellation of origin is registered.

8. No trademark registration shall be granted for similar goods to designations identical or confusingly similar to a company name or a commercial name (specific elements of such names) protected in the Russian Federation or with the name of a selection invention registered in the State Register of Protected selection inventions to which rights has emerged owned by other persons in the Russian Federation prior to the priority date of the trademark being registered.

9. No trademark registration shall be granted to designations identical to:

1) the title/name of a scientific, literary or artistic work, a character or quotation from such work, known in the Russian Federation as of the date of filing of the trademark state registration application (Article 1492) or to an artistic work or a fragment thereof without the consent of the right holder, if rights to the relevant work emerged prior to the priority date of the trademark being registered;

2) the name (article 19), pseudonym (paragraph 1 of article 1265 and subparagraph 3 of paragraph 1 of article 1315) or designations that are derived from them, a portrait or a facsimile of a person known in the Russian Federation on the date of filing of the application, without the consent of that person or his successor;

3) an industrial design, mark of compliance, in respect of which rights has emerged prior to the priority date of the trademark being registered.

The provisions of this paragraph shall also apply in respect of designations confusingly similar to the objects indicated therein.

10. No trademark registration shall be granted in respect of similar goods to designations, elements of which are protected in accordance with present Code, means of individualization of other persons protected, confusingly similar to them, as well as objects referred to in paragraph 9 of this article. The state registration as trademarks of designations is allowed with the

appropriate consent under paragraph 6 and subparagraphs 1 and 2 of paragraph 9 of this article.

11. On the grounds provided by present article, no legal protection shall be granted to trademarks registered in accordance with the international treaties of the Russian Federation.

Article 1492 (3). The Trademark Application

3. The trademark application shall comprise the following:

- 1) an application for the state registration of a designation as a trademark with reference to the applicant, his/its place of residence/whereabouts;
- 2) the designation being declared;
- 3) a list of the goods for which the trademark state registration is sought and which are classified under the classes of the International Classification of Goods and Services for Marks Registration;
- 4) a description of the designation being declared.

Article 1496. The Consequences of Coincidence of the Priority Dates of Trademarks

1. If applications were filed by different applicants for identical trademarks in respect of fully coinciding or partially coinciding lists of goods, and these applications have one and the same priority date the trademark so declared for the goods of which lists coincide may be registered only in the name of one of the applicants to be chosen by agreement between them.

2. If applications for identical trademarks for fully or partially coinciding lists of goods have been filed by one and the same applicant, and these applications have one and the same priority date, the trademark for the goods for which the said lists are coincident may be registered only under one of the applications to be chosen by the applicant.

3. If applications for identical trademarks have been filed by different applicants (Item 1 of the present article), then within six months after the receipt of a relevant notice from the federal executive governmental body charged with intellectual property matters they shall notify that federal body of the agreement they have reached in choosing the specific application whereby the state registration will be sought for the trademark. During the same term the applicant that has filed applications for identical trademarks shall notify of his/its choice made (Item 2 of the present article).

Unless during the established term the federal executive governmental body charged with intellectual property matters receives the said notice or a petition for extension of the established term, the trademark applications shall be deemed withdrawn on the basis of a decision of that federal body.

Article 1497 (3). The Expert Examination of a Trademark Application and the Making of Amendments to Application Documents

3. A change in the details of the applicant is a trademark application, for instance in the event of assignment or transfer of the right of registering the trademark or due to a change in the name of the applicant, and also the correction of obvious and technical errors in application documents may be made until the state registration of the trademark (Article 1503).

Article 1511. The State Registration of a Collective Mark

1. The application for registration of a collective mark (collective mark application) filed with the federal executive governmental body charged with intellectual property matters shall be accompanied by a charter of the collective mark comprising the following:

- 1) the name of the association authorized to register the collective mark in its name (right holder);
- 2) a list of the persons entitled to use the collective mark;
- 3) the purpose of registration of the collective mark;
- 4) a list of the uniform characteristics of quality of, or other common characteristics of the goods which are going to be designated by the collective mark;
- 5) terms for using the collective mark;
- 6) provisions on the procedure for monitoring the use of the collective mark;
- 7) provisions on liability for a breach of the charter of the collective mark.

2. In addition to the details required by Articles 1503 and 1504 of the present Code the following shall be entered into the State Register of Trademarks and a certificate of a collective mark: information on the persons entitled to use the collective mark. This information and also an abstract from the charter of the collective mark on the uniform characteristics of the quality, and the common characteristics, of the goods for which this mark is registered shall be published by the federal executive governmental body charged with intellectual property matters in the gazette. The right holder shall notify the federal executive governmental body charged with intellectual property matters of the amendments made to the charter of a collective mark.

3. If a collective mark is used on goods not having uniform quality characteristics or other common characteristics the legal protection of the collective mark may be terminated before due date in full or in part under a court decision adopted at the application of any person concerned.

4. A collective mark and a collective mark application may be transformed into a trademark and a trademark application respectively and vice versa. The procedure for such transformation shall be established by the federal executive governmental body charged with normative legal regulation in the area of intellectual property.

Corresponding essential provisions of the applicable law

ЗАЯВКА
на регистрацию товарного знака (знака обслуживания)
в Российской Федерации

(210) Номер заявки на государственную регистрацию	2019728739
(220) Дата подачи заявки на государственную регистрацию	17.06.2019
Воспроизведение товарного знака	
OLYMPIC	
Сведения о заявителе Наименование или ФИО:	Общество с ограниченной ответственностью "БИОТЭК"
Адрес и код страны:	127238, Москва, Линейный пр-д, 8, помещение 1, этаж 1, комнаты 1-7
Адрес для переписки:	125009, Москва, Романов пер., 2, стр. 1, Сквайр Паттон Боггз Москва ЛЛС, О.М. Безруковой
(511) Перечень товаров и услуг, в отношении которых зарегистрирован товарный знак:	
05 - препараты фармацевтические; добавки пищевые; добавки минеральные пищевые; добавки биологически активные; препараты витаминные; продукты диетические пищевые.	

ЗАЯВКА
на регистрацию товарного знака (знака обслуживания)
в Российской Федерации

(210) Номер заявки на государственную регистрацию	2019728740
(220) Дата подачи заявки на государственную регистрацию	17.06.2019
Воспроизведение товарного знака	
ОЛИМПИК	
Сведения о заявителе Наименование или ФИО:	Общество с ограниченной ответственностью "БИОТЭК"
Адрес и код страны:	127238, Москва, Линейный пр-д, 8, помещение 1, этаж 1, комнаты 1-7
Адрес для переписки:	125009, Москва, Романов пер., 2, стр. 1, Сквайр Паттон Боггз Москва ЛЛС, О.М. Безруковой
(511) Перечень товаров и услуг, в отношении которых зарегистрирован товарный знак:	
05 - препараты фармацевтические; добавки пищевые; добавки минеральные пищевые; добавки биологически активные; препараты витаминные; продукты диетические пищевые.	