



AMT FÜR VOLKSWIRTSCHAFT  
FÜRSTENTUM LIECHTENSTEIN

## MADRID AGREEMENT AND PROTOCOL

### PROVISIONAL REFUSAL OF PROTECTION

Notified to the International Bureau of the World Intellectual Property Organization (WIPO) according to article 5 of the Madrid Agreement

|      |   |
|------|---|
| I.   | Office making the notification:<br><br><b>AMT FÜR VOLKSWIRTSCHAFT</b><br><br><b>OFFICE OF ECONOMIC AFFAIRS</b><br><b>Liechtenstein National Administration Intellectual Property</b><br><b>P.O. Box 684</b><br><b>9490 Vaduz</b>  |
| II.  | Number of the international registration: <b>1 505 998 TOP NOTCH</b><br><br>Number of the basic registration and country of origin: <b>Italy, 29.04.2019, 302018000032893</b>   |
| III. | Name of the holder (or other indication enabling the identity of the international registration to be confirmed):<br><br><b>GAON S.r.l.</b><br><b>Via Paolo da Cannobio, 9</b><br><b>I-20122 Milano (IT)</b>  |
| IV.  | <input checked="" type="checkbox"/> Provisional refusal based on an <i>ex officio</i> examination<br><br><input type="checkbox"/> Provisional refusal based on an opposition<br><br><input type="checkbox"/> Provisional refusal based on both an <i>ex officio</i> examination and an opposition                                 |
| V.   | <input checked="" type="checkbox"/> Provisional refusal for all the goods and/or services<br>of the class 3 as indicated in the IR.<br><br><input type="checkbox"/> Provisional refusal for some of the goods and/or services:<br>[followed by an indication of the goods and/or services which are affected or are not affected] |

VI. Absolute Grounds for Refusal and Remarks:

- ☒ signs that are in the public domain;
- ☐ shapes that constitute the nature of the goods themselves or shapes of the goods or their packaging that are technically necessary;
- ☐ misleading signs;
- ☐ signs contrary to public policy, morality, or applicable law
- ☐ the representation of the mark is insufficient or the list of goods or services is clearly not correctly formulated
- ☐ the regulation of the collective or guarantee mark is lacking

**The trademark is considered to be devoid of any distinctive character and/or it can be used in trade to designate the goods in question. The mark consists of the term "TOP NOTCH" which means "of the highest quality, first-rate". "TOP NOTCH" describes the goods in class 3, namely that they are of the highest quality. Therefore, the mark must be refused.**

VII. Information relating to an earlier mark :

- (i) Filing date and number, and, if any, priority date:
- (ii) Registration date and number (if available):
- (iii) Name and address of the owner:
- (iv) Reproduction of the mark:
- (v) List of all or relevant goods and/or services:

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

**Art. 2 lit. a) Markenschutzgesetz (MSchG) [Trademark Act]**

IX. Information relating to subsequent procedure:

- (i) Time limit for requesting review or appeal: **17 May 2021**
- (ii) Authority to which such request for review or appeal should be made:

**AMT FÜR VOLKSWIRTSCHAFT**

**OFFICE OF ECONOMIC AFFAIRS**

**Liechtenstein National Administration Intellectual Property**

**P.O. Box 684**

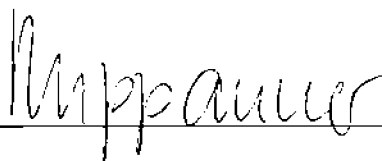
**9490 Vaduz**

(iii) Indications concerning the appointment of a representative:

**The holder may submit his objections exclusively through an agent registered in Liechtenstein, who will act as the applicant's representative before the Office (Art. 39 MSchG).**

X. Date of the notification of provisional refusal: 16 December 2020

XI. Signature or official seal of the Office making the notification:



Jolanda Ruppanner  
Bureau of Intellectual Property



XII. Corresponding essential provisions of the applicable law:

**Gesetz vom 12. Dezember 1996 über den Schutz von Marken und Herkunftsangaben (Markenschutzgesetz)<sup>1</sup>**

**Law of 12 December 1996 regarding the Protection of Trademarks and Geographical Indications (Trademark Act)**

***Article 1  
(Definition)***

1. The trademark is a sign which is capable of distinguishing the goods or services of one undertaking from those of other undertakings.
2. Trademarks may be, in particular, words, letters, numbers, graphic representations, 3-dimensional shapes or combinations of such elements with each other or with colours

***Article 2  
Absolute grounds for exclusion***

The following are excluded from trademark protection:

- a) signs which are common property, unless they have become recognised as the trademark for the goods or services for which they are claimed;
- b) shapes which constitute the nature of the goods themselves and shapes of goods or of their packaging which are technically necessary;
- c) misleading signs;
- d) signs which contravene public order, public morality or applicable law.

<sup>1</sup> The German wording of legal texts is binding, courtesy English translation only.

**Art. 39**

***Representatives and persons authorised to accept service***

- 1. Any person involved in administrative or judicial proceedings governed by this Act and who has a residence, domicile or place of business neither within the country, nor in another EEA Member State nor in Switzerland, may only participate before the administrative or judicial authorities with jurisdiction if he has appointed as representative an attorney at law or patent attorney who is established to practise within the country, or is temporarily admitted to practise professionally within the country.**
- 2. For any person involved in administrative or judicial proceedings governed by this Act and who has a residence, domicile or place of business in another EEA Member State or in Switzerland, the appointment of a person authorised to accept service within the country shall be deemed sufficient for participation before the administrative or judicial authorities with jurisdiction.**