

MADRID PROTOCOL

**Total Provisional Refusal of Protection (Rule 17(1) of the Common Regulations)**

DT-III IR1393518.2.eklim

<b>I. Office making the notification:</b>  <div style="display: flex; justify-content: space-between;"> <div> Patent Office of the Republic of Poland  Trade mark Department  Aleja Niepodległości 188/192  P.O. Box 203  00-950 Warsaw, Poland </div> <div> Phone number: (+48) 22 579 05 55  Fax: (+48) 22 579 00 01 </div> </div>	
<b>II. Number of the international registration: 1393518</b>	
<b>III. Name of the holder:</b>  RIVEDIL DI CODARDO COSIMO KM 0,550, Via Prov.le per Veglie, I-73015 Salice Salentino (Lecce) , IT	
<b>IV. Provisional refusal based on an opposition</b>	
<b>V. Total provisional refusal affects all the goods and/or services.</b>	
<b>VI. Grounds for refusal (see item VII)</b>	
<b>VII. Information related to the grounds of refusal:</b>  <input type="checkbox"/> Earlier international mark  <b>Article 132<sup>1</sup> (1) 3)</b>  <b>Sahara; fig., 19.07.2019; No. 1493895; Priorité: 19.07.2019,</b> <b>Holder:</b> <b>Preduzeće za proizvodnju, promet i usluge "MAXIMA" d.o.o.; Dragiše Mišovića 16 32240 Lučani, RS</b>  Details concerning the earlier mark(s) – see appendix	
<b>VIII. Corresponding essential provisions of the applicable law (see next pages)</b>	
<b>IX. Information related to further procedures:</b> i) The Patent Office of the Republic of Poland will send the received notice of opposition relating to the international registration in question directly to the holder of that registration with information on the procedure. The cooling-off period is set to expire two months after receipt of the notice of opposition by the holder. The holder may submit comments on opposition within said two months. After the expiry of the cooling-off period The Patent Office of the Republic of Poland will invite the holder to file the observations on the opposition. The observations must be filed directly with The Patent Office of the Republic of Poland. ii) In proceedings before the Patent Office a patent agent, attorney, legal counsel or a person providing cross-border services within the meaning of the Act on Patent Agents may act as a representative of a party to proceedings. Any persons not having their domicile or seat in the Republic of Poland may only act by a representative. If they did not appoint a representative to conduct the proceedings who is domiciled in the Republic of Poland and do not act by the intermediary of a consul of the Republic of Poland, are obligated to designate a representative for service in the Republic of Poland. In the event of failure to designate a representative who is authorised to accept service of documents, the letters addressed to that party will be placed in the case-file and will be deemed to have been served. iii) The obligation shall not apply to persons having their domicile or seat in the European Union, a member state of the European Free Trade Association (EFTA) – parties to the agreement on the European Economic Area or the Swiss Confederation.	
<b>X. Signature or official seal of the Office making the notification:</b>          <div style="text-align: center;"> Ewa Klimek  expert  /document signed electronically/ </div>	
<b>XI. Date of notification to the International Bureau: 21.01.2021</b>	

## Essential provisions of INDUSTRIAL PROPERTY LAW - ACT OF 30 JUNE 2000

### Article 132<sup>1</sup>

(1) After consideration of the opposition referred to in Article 152<sup>6a</sup>(1) or Article 152<sup>17</sup>(1), and having deemed it justified, right of protection shall not be granted for sign:

- 1) whose use infringes third parties' personal or economic rights;
- 2) which is identical to a trade mark, which has been granted a right of protection with earlier priority to another party for identical products;
- 3) which is identical or similar to a trade mark, which has been granted a right of protection with an earlier priority to another party for identical or similar products, if there is a risk of misleading the public, which includes in particular the risk of associating the trade mark with an earlier trade mark;
- 4) which is identical or similar to a renowned trade mark for which a right of protection with an earlier priority has been granted to another person for any kind of goods, if the use of the trade mark filed without reasonable cause would bring unfair advantage to the applicant or be detrimental to the distinctive character or the repute of the earlier trade mark;
- 5) which is identical or similar to a trade mark which, prior to the date according to which the priority to obtain a right of protection is determined, has been commonly known in the Republic of Poland and used as a trade mark intended to mark products identical or similar to those of another party, if there is a risk of misleading the public, which includes in particular the risk of associating the trade mark with a commonly known trade mark;
- 6) if, pursuant to the national law or the European Union legislation providing for protection of a geographical indication or a designation of origin, a person authorised to exercise the rights arising from an earlier filing of an application for a geographical indication or a designation of origin, subject to its subsequent registration, is entitled to prohibit the use of a subsequent trade mark.

(2) The ground for the opposition referred to in Article 152<sup>6a</sup>(1) or Article 152<sup>17</sup>(1) may also be trade mark applications with earlier priority, referred to in paragraph (1)(2)-(4), provided that they are granted the right of protection. Until final termination of earlier granting procedures, the opposition proceedings shall be suspended.

(3) Where an earlier trade mark has been applied for protection or registered according to the procedure provided for in Article 4, provisions of paragraph (1) and (2) shall apply accordingly.

(4) The protection of a trade mark containing signs referred to in Article 129<sup>1</sup>(1)(8)-(11), or signs relating to the origin of the goods shall not exclude the possibility of obtaining the right of protection by another party for a trade mark containing the same elements for identical or similar goods if such trade marks can be easily distinguished in the course of trade.

### Article 133

If the holder of the earlier trade mark or the holder of the earlier personal or economic right express written consent to the grant of a right of protection for later trade mark, the opposition referred to in Article 152<sup>6a</sup>(1) or Article 152<sup>17</sup>(1) shall be dismissed.

### Article 152<sup>6a</sup>

(1) Within three months from the date of publication of the information on the designation of the Republic of Poland for the extension of the protection for an international trade mark, the holder of the right to an earlier trade mark or to an earlier personal or economic rights may file an opposition against the grant of the protection for an international trade mark in the territory of the Republic of Poland for the reasons referred to in Article 132<sup>1</sup>(1)-(3). The said time limit shall be non-restorable.

(2) If an opposition against designation of the Republic of Poland for the extension of the protection of an international trade mark is filed, the Patent Office shall, when applying the procedure, form and language as provided for in the Agreement or the Protocol, notify the International Bureau of a statement of grounds which may prevent the protection of the international trade mark in whole or in part (provisional refusal of protection based on an opposition).

(3) The provisions of Article 152<sup>17</sup>(2)-(7) and Articles 152<sup>18</sup>-152<sup>23</sup> shall apply accordingly to the proceedings relating to the opposition against the designation of the Republic of Poland for the extension of the protection for an international trade mark.

### Article 152<sup>7</sup>

The decision regarding grant of protection shall be liable to a party's request for re-examination of the matter. A time limit for submitting the request shall be 3 months from the date of service of the decision on the right holder. The provisions of Article 244 paragraphs (1<sup>1</sup>) to (1<sup>4</sup>), and (5), Article 244<sup>1</sup> and Article 245 shall apply accordingly.

### Article 152<sup>7a</sup>

Following a final termination of the proceeding concerning the extension of protection of an international trade mark to the territory of the Republic of Poland, the Patent Office shall transmit to the International Bureau a notification of the decision issued as a result of the said proceedings, unless the decision along with notification, were transmitted under Article 152<sup>6b</sup>(1).

### Article 152<sup>19</sup>

(1) Patent Office shall, without delay, notify the applicant of an opposition and inform parties of the possibility of an amicable settlement of the dispute within two months of the date of delivery of the information.

(2) The time limit referred to in paragraph (1) may be extended to six months upon joint request of the parties.

(3) After the expiry of the time limit referred to in paragraph (1), the Patent Office shall invite the applicant to comment on the opposition within a fixed time limit. In the comments to the opposition the applicant shall include objections and cite all factual circumstances and supporting evidence.

(4) Within the time limit referred to in paragraph (3) the applicant may raise an objection of the lack of actual use of an earlier trade mark during an uninterrupted period of five years prior to the filing date of a trade mark being the subject of opposition for goods included in the opposition unless there are significant reasons for the lack of use or the period of five years from the registration of an earlier trade mark has not expired. If the objection is found to be justified, the Patent Office shall dismiss the opposition.

(5) Patent Office shall submit the comments on the opposition to the party filing the opposition and shall fix a time limit for him to react and to complete evidence. The provision of Article 169(6) shall apply accordingly.

(6) The applicant may make comments on the evidence and claims presented pursuant to paragraph (5) by the party filing the opposition within the time limit fixed by the Patent Office.

(7) Patent Office may invite the party to the proceedings to present within a fixed time limit, its position in respect of the materials presented by the other party or the Patent Office.

(8) Patent Office shall disregard claims and evidence which were not presented within the fixed time limit unless the party proves that they could not have been put forward or that the need to present them arose later. Further claims and supporting evidence shall be admitted within a month from the date on which the possibility or the need of presenting them arose.

#### Article 152<sup>20</sup>

Patent Office shall consider the opposition within its limits and shall be bound by the legal basis indicated by the party submitting the opposition.

#### Article 152<sup>21</sup>

After the consideration of the opposition the Patent Office shall take a decision on dismissing the opposition or on finding it justified in whole or in part.

#### Article 236

(1<sup>1</sup>) In proceedings before the Patent Office in matters relating to filing and processing of applications and maintaining the protection of trade marks a patent agent, attorney, legal counsel or a person providing cross-border services within the meaning of the Act on Patent Agents may act as a representative of a party to proceedings.

(3) In the matters referred to in paragraph (1) and (1<sup>1</sup>), any persons not having their domicile or seat in the Republic of Poland may only act when represented by a patent agent, attorney or a legal counsel. The obligation shall not apply to persons having their domicile or seat in the European Union, a member state of the European Free Trade Association (EFTA) – parties to the agreement on the European Economic Area or the Swiss Confederation.

Potwierdzam zgodność kopii z dokumentem elektronicznym:

Identyfikator dokumentu	1333611.7884423.10161388
Nazwa dokumentu	2. IR - wstępna odmowa całkowita od 15.4.16-sprzeciw-j.ang..pdf
Tytuł dokumentu	2. IR - wstępna odmowa całkowita od 15.4.16-sprzeciw-j.ang.
Sygnatura dokumentu	DT-III.IR1393518.2.eklim
Data dokumentu	2021-01-21 00:00:00
Skrót dokumentu	6652A8595162D488F271B88276C8E9CA4F91B18C
Wersja dokumentu	1.5
Data podpisu	2021-01-21
Podpisane przez	Ewa Jolanta Klimek Ekspert
Rodzaj certyfikatu	Certyfikat kwalifikowany podpisu elektronicznego
	1 / 13 3 95 1 8 5 5 0
Data wydruku:	2021-01-21 08:08:38
Autor wydruku:	Klimek Ewa

	Madrid Monitor	International Trademark
1493895- Sahara		Printed: 2021-01-21 07:45

## 1493895- Sahara

Full details / English

Current Status

- 180 Expected expiration date of the registration/renewal**  
19.07.2029
- 151 Date of the registration**  
19.07.2019
- 270 Language of the application**  
French
- 732 Name and address of the holder of the registration**  
Preduzeće za proizvodnju, promet i usluge "MAXIMA" d.o.o.  
Dragiše Mišovića 16  
32240 Lučani (RS)
- 812 Contracting State or Contracting Organization in the territory of which the holder has a real and effective industrial or commercial establishment**  
RS
- 740 Name and address of the representative**  
Živko Mijatović & Partners  
Sturientski trg 4  
11000 Beograd (RS)
- 540 Mark**

- 531 International Classification of the Figurative Elements of Marks (Vienna Classification) - VCL(8)**  
27.05.01
- 511 International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification) - NCL(11-2019)**  
02 Paints.
- 821 Basic application**  
RS, 19.07.2019, Ž-1108/2019
- 300 Data relating to priority under the Paris Convention and other data relating to registration of the mark in the country of origin**  
RS, 19.07.2019, Ž-1108/2019
- 832 Designation(s) under the Madrid Protocol**  
EM
- 834 Designation(s) under the Madrid Protocol by virtue of Article 9sexies**  
BA - ME - MK

## Transaction History

expand  
EM

**Registration : 2019/41 Gaz, 24.10.2019, BA, EM, ME, MK**

- 450 Publication number and date**  
2019/41 Gaz, 24.10.2019

	Madrid Monitor	International Trademark
1493895- Sahara		Printed: 2021-01-21 07:45

**832 Designation(s) under the Madrid Protocol**

EM

**834 Designation(s) under the Madrid Protocol by virtue of Article 9sexies**

BA - ME - MK

**581 Date of notification by the International Bureau to the designated Contracting Parties (from which the time limit to notify the refusal starts)**

24.10.2019

The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)

MK

**Ex Officio examination completed but opposition or observations by third parties still possible, under Rule 18bis(1) : 2019/44 Gaz, 14.11.2019, EM**

EM

**450 Publication number and date**

2019/44 Gaz, 14.11.2019

**Opposition end date**

25.02.2020

**Statement of grant of protection made under Rule 18ter(1) : 2020/14 Gaz, 16.04.2020, EM**

EM

**450 Publication number and date**

2020/14 Gaz, 16.04.2020

**Date of receipt by the International Bureau**

27.03.2020