

STATE INTELLECTUAL PROPERTY OFFICE OF THE REPUBLIC OF CROATIA

Ulica Grada Vukovara 78
10000 Zagreb, Croatia
(tel. :+385 1 6106-100, 6106-401, fax :+385 1 6112-017)

Zagreb, **05/02/2021**

Our reference: **910-08/20-010/0123**
559-04/3-21-012/GDŽ

Provisional refusal of protection / Privremeno odbijanje zaštite

According to Rule 17 of the Common Regulations under the Madrid Agreement and Protocol / Sukladno pravilu 17. Zajedničkog pravilnika uz Madridski sporazum i Protokol

I. Number of the international registration / Broj međunarodne registracije: **1 547 225**

II. Name and address of the holder / Ime i adresa nositelja:

HISPALCO, S.A.

C/ Barranco Pascual, 45, Pol. Ind. Campo Aníbal
E-46530 Puzol (Valencia)
ES

III. Provisional refusal based on opposition / Privremeno odbijanje na temelju prigovora

IV. Grounds for refusal (see the text in column VIII) / Razlozi odbijanja (vidjeti tekst u rubrici VIII)

V. Corresponding essential provisions of the applicable law (see the text in column IX) / Odgovarajuće bitne odredbe zakona koji se primjenjuje (vidjeti tekst u rubrici IX):

Art. 10 para. 1 point 2

Art. 10 para. 1 point 3

VI. Scope of the provisional refusal / Opseg privremenog odbijanja

☒ Provisional refusal for **all** the goods and/or services / Odbijanje za **sve** proizvode i/ili usluge

VII. Information relating to subsequent procedure / Obavijesti o daljnjem tijeku postupka:

The holder of the international trademark registration may file his observations on the provisional refusal to the State Intellectual Property Office only through the intermediary of a representative established in the Republic of Croatia. The time limit for filing the power of attorney shall be 4 months, counting from the date of the notification of refusal, or up to **05/06/2021**. If the power of attorney is not filed up to the mentioned date, the requested registration of the trademark shall be refused within the limits of the requests referred to in the opposition. If the power of attorney is filed within the time limit as prescribed, the Office shall forward the opposition with an invitation for observations to be filed within 60 days upon its receipt.

Nositelj međunarodne registracije žiga može se očitovati na privremeno odbijanje pri Državnom zavodu za intelektualno vlasništvo Republike Hrvatske isključivo putem ovlaštenog domaćeg opunomoćenika

koji mora podnijeti punomoć u roku od 4 mjeseca računajući od datuma obavijesti o odbijanju odnosno do **05/06/2021**. Zatražena registracija odbija se u granicama zahtjeva navedenih u prigovoru ako se punomoć ne dostavi do navedenog datuma. Ako je punomoć podnesena u propisanom roku, Zavod prosljeđuje prigovor s pozivom na očitovanje u roku od 60 dana od dana njegova primitka.

VIII.

On 01 December 2020, the opponent Godiva Belgium B.V./S.R.L., Veeartsenstraat 42 D, 1070 Anderlecht, BE, represented by authorized representative PETOŠEVIĆ d.o.o., Ulica Josipa Račića 2, 10000 Zagreb, HR, filed an opposition to the international trademark registration No. 1547225 in the Republic of Croatia for all goods, based on the earlier European Union trademark registration No. 000184622 and European Union trademark registration No. 010925303.

Trademark No.: EUTM 000184622

Holder: Godiva Belgium B.V./S.R.L.

Address of the holder: Veeartsenstraat 42 D, 1070 Anderlecht, BE

Registration date: 25/09/1998

Application date: 01/04/1996

Class(es) of goods/services: 29, 30 and 33

Hyperlink: <https://euipo.europa.eu/eSearch/#details/trademarks/000184622>

Trademark No.: EUTM 010925303

Holder: Godiva Belgium B.V./S.R.L.

Address of the holder: Veeartsenstraat 42 D, 1070 Anderlecht, BE

Registration date: 30/10/2012

Application date: 30/05/2012

Class(es) of goods/services: 35 and 43

Hyperlink: <https://euipo.europa.eu/eSearch/#details/trademarks/010925303>

Additional information relating to the earlier rights attached.

Due to the mentioned opposition, the protection in the Republic of Croatia shall not be provisionally granted to the international registration No. 1547225 for all of the goods.

Signature of the Examiner

Gordana Džankić

IX. Corresponding essential provisions of the applicable law:

Relative grounds for refusal – Article 10 of the Trademarks Act (Official Gazette of the Republic of Croatia No. 14/19)

(1) Upon opposition by the proprietor of an earlier trademark, the trademark applied for shall not be registered:

1. if it is identical with the earlier trademark and the goods or services for which registration is applied for are identical with the goods or services for which the earlier trademark is protected;
2. if because of its identity with, or similarity to, the earlier trademark and the identity or similarity of the goods or services covered by the trademarks there exists a likelihood of confusion on the part of the public in the Republic of Croatia; the likelihood of confusion includes the likelihood of association with the earlier trademark;
3. if it is identical with or similar to the earlier trademark, irrespective of whether the goods or services for which it is applied are identical with, similar to or not similar to those for which the earlier trademark is registered, where the earlier trademark has a reputation in the Republic of Croatia, and where the use without due cause of the later trademark would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trademark.

(2) For the purposes of paragraph 1 of this Article, "earlier trademarks" mean:

1. trademarks of the following kinds with a date of application for registration which is earlier than the date of application for registration of the contested trademark, taking account, where appropriate, of the priorities claimed in respect of those trademarks:
 - (a) nationally registered trademarks,
 - (b) trademarks registered under international arrangements which have effect in the Republic of Croatia, nationally registered trademarks,
 - (c) EU trademarks,
 - (d) EU trademarks registered under international arrangements which have effect in the European Union.
2. applications for the registration of trademarks referred to in point 1 subpoints (a) and (c) of this paragraph, subject to their registration
3. trademarks which, on the date of application for registration of the trademark, or, if priority is claimed, on the date of priority right claimed in the application, are well known in the Republic of Croatia, in the sense in which the words "well known" are used in Article 6bis of the Paris Convention.

(3) Upon opposition by the proprietor of an earlier right, a trademark shall not be registered if its use would infringe one of the following earlier rights:

1. a right to a name,
2. a right of personal portrayal,
3. a copyright,
4. industrial property rights other than those provided by this Act as a separate ground for refusal of trademark registration, provided that such rights are acquired on a date which is earlier than the date of application for registration of the trademark, taking account, where appropriate, of the priorities claimed in respect of that trademark.

(4) Upon opposition by the owner of a company entered in a court register before the date of application for registration of the trademark in respect of the opposition, taking account, where appropriate, of the priorities claimed in respect of that trademark, the trademark shall not be registered if the company or an essential part thereof is identical with, or similar to, the trademark and the goods or services which are the subject matter of business of that company are identical or similar to those for which the trademark is applied for and are being used in trade, unless the applicant had the identical or similar company at the time of filing the application for registration of a trademark

(5) Upon opposition by the proprietor of the trademark, the trademark shall not be registered in the name of a trade agent or a representative of a trademark holder without his authorisation, unless a trade agent or a representative justifies his action.

(6) Upon opposition by any person authorised under the relevant law to exercise the rights arising from a designation of origin or a geographical indication, the trademark applied for shall not be registered where and to the extent that, pursuant to the Union legislation or national law of the Republic of Croatia providing for the protection of designations of origin or geographical indications:

1. an application for a designation of origin or a geographical indication had already been submitted, in accordance with Union legislation or national law of the Republic of Croatia, prior to the date of application for registration of the trademark or the date of the priority claimed for the application, subject to its subsequent registration; and
2. that designation of origin or geographical indication confers the right to the person authorised under the relevant law to exercise the rights arising from it to prohibit the use of a subsequent trademark.

Relativni razlozi za odbijanje – Članak 10. Zakona o žigu („Narodne novine“, broj 14/19)

(1) Na temelju prigovora nositelja ranijeg žiga, žig za koji je podnesena prijava neće se registrirati:

1. ako je istovjetan s ranijim žigom i ako su proizvodi ili usluge za koje je podnesena prijava za registraciju istovjetni s proizvodima ili uslugama za koje je raniji žig zaštićen
2. ako zbog njegove istovjetnosti ili sličnosti s ranijim žigom i istovjetnosti ili sličnosti proizvoda ili usluga obuhvaćenih žigovima postoji vjerojatnost dovođenja javnosti u zabludu u Republici Hrvatskoj; vjerojatnost dovođenja u zabludu uključuje vjerojatnost dovođenja u vezu s ranijim žigom
3. ako je istovjetan ili sličan ranijem žigu, neovisno o tome jesu li proizvodi ili usluge iz prijave istovjetni, slični ili nisu slični onima za koje je registriran raniji žig, ako raniji žig ima ugled u Republici Hrvatskoj, a uporaba kasnijeg žiga bez opravdanog razloga nepošteno bi iskoristila razlikovni karakter ili ugled ranijeg žiga ili im naštetila.

(2) Za potrebe stavka 1. ovoga članka pod pojmom "raniji žigovi" smatraju se:

1. žigovi sljedećih vrsta s datumom prijave za registraciju koji je raniji od datuma prijave za registraciju osporavanoga žiga, uzimajući u obzir, ako je to primjereno, prava prvenstva koja su zatražena u odnosu na te žigove:
 - (a) nacionalno registrirani žigovi,
 - (b) žigovi registrirani na temelju međunarodnih sporazuma koji imaju učinak u Republici Hrvatskoj,
 - (c) žigovi Europske unije,
 - (d) žigovi Europske unije registrirani na temelju međunarodnih sporazuma koji vrijede u Europskoj uniji.
2. prijave za registraciju žigova iz točke 1. podtočaka (a) i (c) ovoga stavka, pod uvjetom njihove registracije

3. žigovi koji su na datum prijave za registraciju žiga ili, ako je zatraženo pravo prvenstva u prijavi za registraciju žiga, na datum prava prvenstva dobro poznati u Republici Hrvatskoj u smislu u kojemu se izraz „dobro poznat“ rabi u članku 6.bis. Pariške konvencije.

(3) Na temelju prigovora nositelja ranijeg prava neće se registrirati žig ako bi njegova uporaba vrijedala neko od sljedećih ranijih prava:

1. pravo na ime,
2. pravo na osobnu sliku,
3. autorsko pravo,
4. druga prava industrijskog vlasništva osim onih propisanih ovim Zakonom kao zaseban temelj za odbijanje registracije žiga pod uvjetom da su ta prava stečena na dan koji je raniji od datuma prijave za registraciju žiga uzimajući u obzir, ako je to primjereno, pravo prvenstva koje je zatraženo u odnosu na takav žig.

(4) Na temelju prigovora imatelja tvrtke upisane u sudski registar prije dana podnošenja prijave za registraciju žiga u odnosu na koji se podnosi prigovor, uzimajući u obzir, ako je to primjereno, pravo prvenstva koje je zatraženo u odnosu na takav žig, neće se registrirati žig ako je tvrtka ili bitni dio tvrtke istovjetan ili sličan žigu i proizvodi ili usluge koje su predmet djelatnosti te tvrtke istovjetni su ili slični onima iz prijave žiga i rabe se u trgovačkom prometu, osim ako je podnositelj prijave u trenutku podnošenja prijave imao istovjetnu ili sličnu tvrtku.

(5) Na temelju prigovora nositelja žiga neće se registrirati žig čiju prijavu za registraciju u svoje ime bez dopuštenja nositelja žiga podnese trgovački zastupnik ili predstavnik nositelja žiga, osim ako takav zastupnik ili predstavnik opravda svoj postupak.

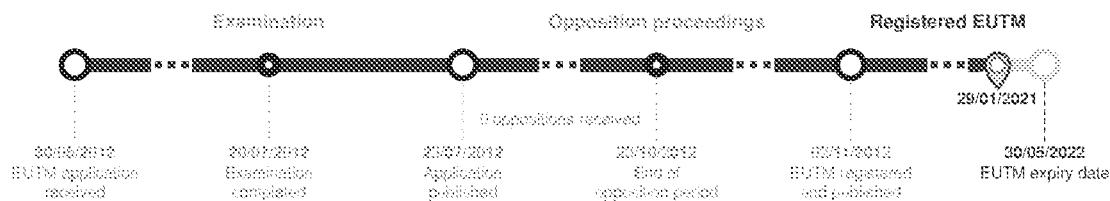
(6) Na temelju prigovora bilo koje osobe ovlaštene prema mjerodavnom pravu za ostvarivanje prava koja proizlaze iz oznake izvornosti ili oznake zemljopisnog podrijetla, žig za koji je podnesena prijava neće se registrirati kada, i u opsegu u kojem, sukladno zakonodavstvu Europske unije ili pravnim propisima Republike Hrvatske kojim se predviđa zaštita oznaka izvornosti ili oznaka zemljopisnog podrijetla:

1. je zahtjev za oznaku izvornosti ili oznaku zemljopisnog podrijetla već podnesen u skladu sa zakonodavstvom Europske unije ili pravnim propisima Republike Hrvatske prije datuma prijave za registraciju žiga ili datuma prvenstva zatraženog u prijavi, pod uvjetom njezine kasnije registracije te
2. ta oznaka izvornosti ili oznaka zemljopisnog podrijetla daje osobi ovlaštenoj u okviru mjerodavnog prava za ostvarivanje prava koja proizlaze iz nje pravo zabrane uporabe kasnijeg žiga.

EUTM file information

GODIVA
010925303

Timeline



Trade mark information

Name	GODIVA	Filing date	30/05/2012
Filing number	010925303	Registration date	30/10/2012
Basis	EUTM	Expiry date	30/05/2022
Date of receipt	30/05/2012	Designation date	
Type	Word	Filing language	English
Nature	Individual	Second language	French
Nice classes	35, 43 (Nice Classification)	Application reference	LAB/CTM12-0742
Vienna Classification		Trade mark status	Registered
		Acquired distinctiveness	No

Goods and services

English (en)

35 Retail services related to food, confectionery and beverage products; advertising and publicity services in relation to gifts; advertising, promotional and publicity services, all employing gifts.

43 Restaurant, bar, coffee shop, café, catering and snack bar services; services for providing food and drink.

Description

No data

Owners

GODIVA BELGIUM B.V./S.R.L.

ID **516752** Country **BE - Belgium** Correspondence address

Hidden. You can set your

Organisation	GODIVA BELGIUM B.V./S.R.L.	State/country	n/a	GODIVA BELGIUM B.V./S.R.L. Veeartsenstraat 42 D B-1070 Anderlecht BÉLGICA	contact details to be publicly available via the User Area.
Legal status	Legal entity	Town	Anderlecht		
		Post code	1070		
		Address	Veeartsenstra 42 D		Hidden. You can set your contact details to be publicly available via the User Area.
					Hidden. You can set your contact details to be publicly available via the User Area.

Representatives

Württembergischer Rechtsanwälte

ID	95623	Country	DE - Germany	Correspondence address	
Organisation	n/a	State/country	n/a	Württembergischer Rechtsanwälte Maximiliansplatz 12b D-80333 München ALEMANIA	Hidden. You can set your contact details to be publicly available via the User Area.
Legal status	Legal person	Town	München		
Type	Association	Post code	80333		Hidden. You can set your contact details to be publicly available via the User Area.
		Address	Maximilianspl 12b		Hidden. You can set your contact details to be publicly available via the User Area.

Correspondence

	From	Procedure	Filing number	Subject	Date	Actions
		Recordal	018112493	T72RW - Change in the name and/or address of the applicant/proprietor - notification of entry in the Register	09/07/2020	
		Recordal	018112493	Application form and attachment	02/07/2020	
		Recordal	017697668	H726A - Notification of entry of a change of representative in the Office - Register and database	10/04/2020	
		Recordal	017697668	H726A - Notification of entry of a change of representative in the Office - Register and database	10/04/2020	
		Recordal	017697668	Application form and attachment	09/04/2020	
		Recordal	010860800	T725M - Registration of recordal C.2.2 / B.9.2	22/04/2016	
		Recordal	010860800	Application form and attachment	22/04/2016	
		EUTM	010925303	LSU01 — Information to proprietors of earlier trade mark registrations or applications (Article 43(7) EUTMR)	04/03/2014	
		EUTM	010925303	LSU01 — Information to proprietors of earlier trade mark registrations or applications (Article 43(7) EUTMR)	04/03/2014	
		Recordal	008064456	T724M - Registration of recordal (change of name and/or professional address of a representative)	17/12/2013	
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IR transformation

No data

Seniority

No data

Exhibition priority

No data

Priority

No data

Publications

Bulletin number	Date	Section	Description
2012/138	23/07/2012	A.1	Applications published under Article 44 EUTMR (Article 39 EUTMR before 01/10/2017)
2012/162	27/08/2012	C.2.1	Representative - Change of name and professional address
2012/209	02/11/2012	B.2	Registrations with amendments since the application was published
2013/240	18/12/2013	C.2.1	Representative - Change of name and professional address
2013/240	18/12/2013	C.2.1	Representative - Change of name and professional address
2016/077	26/04/2016	C.2.2	Representative - Appointment / Replacement of representative
2020/071	15/04/2020	C.2.2	Representative - Appointment / Replacement of representative
2020/129	10/07/2020	C.1.3	Proprietor - Change of name and address
Showing 1 to 8 of 8 entries			

Cancellation

No data

Records

Bulletin number	Date	Section	Filing number	Title	Subtitle
2012/162	27/08/2012	C.2.1	006734233	Representative	Change of name and professional address
2013/240	18/12/2013	C.2.1	008064456	Representative	Change of name and professional address
2013/240	18/12/2013	C.2.1	008063276	Representative	Change of name and professional address
2016/077	26/04/2016	C.2.2	010860800	Representative	Appointment / Replacement of representative
2020/071	15/04/2020	C.2.2	017697668	Representative	Appointment / Replacement of representative
2020/129	10/07/2020	C.1.3	018112493	Proprietor	Change of name and address
Showing 1 to 6 of 6 entries					

Oppositions

No data

Appeals

No data

Decisions

No data

Renewals

No data

Trade mark relations

No data

InternationalApplications

No data

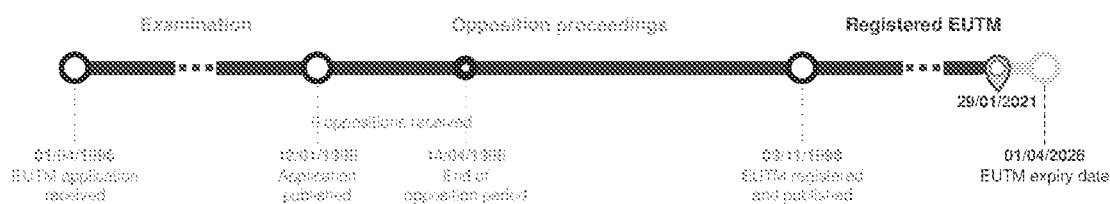


Protect your intellectual property in the European Union

EUTM file information

GODIVA
000184622

Timeline



Trade mark information

Name	GODIVA	Filing date	01/04/1996
Filing number	000184622	Registration date	25/09/1998
Basis	EUTM	Expiry date	01/04/2026
Date of receipt	01/04/1996	Designation date	
Type	Word	Filing language	Dutch
Nature	Individual	Second language	English
Nice classes	29, 30, 33 (Nice Classification)	Application reference	292340
Vienna Classification		Trade mark status	Registered
		Acquired distinctiveness	No

Goods and services

English (en)

- 29** Preserved, dried and cooked fruits; jellies, jams, milk products.
- 30** Coffee, tea, cocoa, sugar; chocolate products, biscuits, cakes, pastry and confectionery, ice; honey, treacle, sauces (except salad dressings).
- 33** Alcoholic beverages (except beer).

Description

No data

Owners

GODIVA BELGIUM B.V./S.R.L.

Representatives

Württembergischer Rechtsanwälte

ID	95623	Country	DE - Germany	Correspondence address	Hidden. You can set your contact details to be publicly available via the User Area.
Organisation	n/a	State/county	n/a	Württembergischer Rechtsanwälte	
Legal status	Legal person	Town	München	Maximiliansplatz 12b	Hidden. You can set your contact details to be publicly available via the User Area.
Type	Association	Post code	80333	D-80333 München	
		Address	Maximilianspl 12b	ALEMANIA	Hidden. You can set your contact details to be publicly available via the User Area.

Correspondence

	From	Procedure	Filing number	Subject	Date	Actions
		Recordal	018331226	T72RW - Change in the name and/or address of the applicant/proprietor - notification of entry in the Register	14/08/2020	
		Recordal	018331226	Application form and attachment	11/08/2020	
		Recordal	018331226	Letter to the EUIPO	11/08/2020	
		Recordal	017697668	H726A - Notification of entry of a change of representative in the Office - Register and database	10/04/2020	
		Recordal	017697668	H726A - Notification of entry of a change of representative in the Office - Register and database	10/04/2020	
		Recordal	017697668	Application form and attachment	09/04/2020	
		EUTM	000184622	LSU02 — Information to proprietors of earlier trade mark registrations or applications (Article 195(4) EUTMR)	24/01/2018	
		EUTM	000184622	LSU01 — Information to proprietors of earlier trade mark registrations or applications (Article 43(7) EUTMR)	09/01/2018	
		EUTM	000184622	LSU02 — Information to proprietors of earlier trade mark registrations or applications (Article 195(4) EUTMR)	11/10/2016	
		EUTM	000184622	LSU02 — Information to proprietors of earlier trade mark registrations or applications (Article 195(4) EUTMR)	11/10/2016	
Showing 1 to 10 of 83 entries						

IR transformation

No data

Seniority

Country	Filing number	Registration number	Priority date	Filing date	Registration date	International code	Status
Benelux		516642			26/05/1992	EU	ACCEPTED
Showing 1 to 1 of 1 entries							

Exhibition priority

No data

Priority

No data

Publications

Bulletin number	Date	Section	Description
1998/004	12/01/1998	A.1	Applications published under Article 44 EUTMR (Article 39 EUTMR before 01/10/2017)
1998/085	09/11/1998	B.2	Registrations with amendments since the application was published
2006/024	12/06/2006	D.1	Renewals
2007/043	20/08/2007	C.2.2	Representative - Appointment / Replacement of representative
2007/043	20/08/2007	C.2.1	Representative - Change of name and professional address
2007/045	27/08/2007	C.2.1	Representative - Change of name and professional address
2007/047	03/09/2007	C.2.2	Representative - Appointment / Replacement of representative
2008/045	10/11/2008	C.2.2	Representative - Appointment / Replacement of representative
2008/045	10/11/2008	C.2.2	Representative - Appointment / Replacement of representative
2009/004	02/02/2009	C.1.3	Proprietor - Change of name and address
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Cancellation

No data

Recordals

Bulletin number	Date	Section	Filing number	Title	Subtitle
2006/024	12/06/2006	D.1	001441701	Renewal	Total Renewal
2007/043	20/08/2007	C.2.2	000723067	Representative	Appointment / Replacement of representative
2007/043	20/08/2007	C.2.1	001706756	Representative	Change of name and professional address
2007/045	27/08/2007	C.2.1	002285206	Representative	Change of name and professional address
2007/047	03/09/2007	C.2.2	001001026	Representative	Appointment / Replacement of representative
2008/045	10/11/2008	C.2.2	003478669	Representative	Appointment / Replacement of representative
2008/045	10/11/2008	C.2.2	003478933	Representative	Appointment / Replacement of representative
2009/004	02/02/2009	C.1.3	003640722	Proprietor	Change of name and address
2009/005	09/02/2009	C.2.2	003657551	Representative	Appointment / Replacement of representative
2012/007	11/01/2012	C.2.2	006192671	Representative	Appointment / Replacement of representative
Showing 1 to 10 of 14 entries					

Oppositions

No data

Appeals

No data

Decisions

No data

Renewals

Title	Filing number	Status	Status date
Renewal	001441701	Trade mark renewed	12/06/2006
Renewal	010039603	Trade mark renewed	11/05/2016
Showing 1 to 2 of 2 entries			

Trade mark relations

No data

InternationalApplications

No data