

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, **28/07/2021**

Our reference: **910-08/21-010/0052**
559-04/3-21-005/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: **1 579 492**

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

F&I Beverages AG
Baarerstrasse 52
CH-6300 Zug
CH

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

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 **28/11/2021**. 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 **28/11/2021**. 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 30 June 2021, the opponent BACARDI & COMPANY LIMITED, Aeulestrasse 5, 9490 Vaduz, LI, represented by authorized representative Odvjetničko društvo Korper i Partneri, Prilaz Gjura Deželića 16, 10000 Zagreb, HR, filed an opposition to the international trademark registration No. 1579492 in the Republic of Croatia for all goods, based on the earlier European Union trademark registration No. 017563801 and International trademark registration No. 0890134.

Trademark No.: EUTM 017563801
Holder: BACARDI & COMPANY LIMITED
Address of the holder: Aeulestrasse 5, 9490 Vaduz, LI
Registration date: 23/03/2018
Application date: 05/12/2017
Class(es) of goods/services: 33
Hyperlink: <https://euipo.europa.eu/eSearch/#details/trademarks/017563801>

Trademark No.: 0890134
Holder: Bacardi & Company Limited
Address of the holder: Aeulestrasse 5, FL-9490 Vaduz, LI
Registration date: 22 May 2006
Class(es) of goods/services: 33
Hyperlink: <https://www3.wipo.int/madrid/monitor/en/showData.jsp?ID=ROM.890134>

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. 1579492 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.

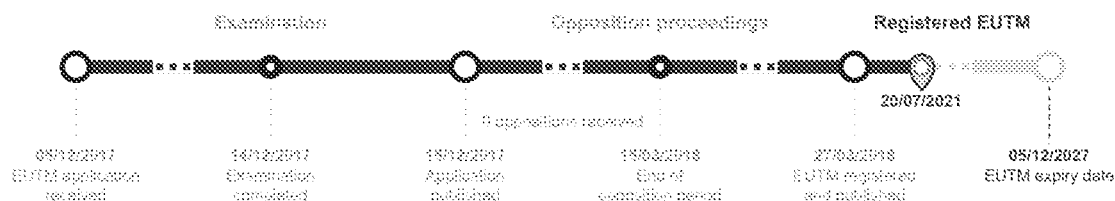


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EUTM file information

(Trade mark without text) 017563801

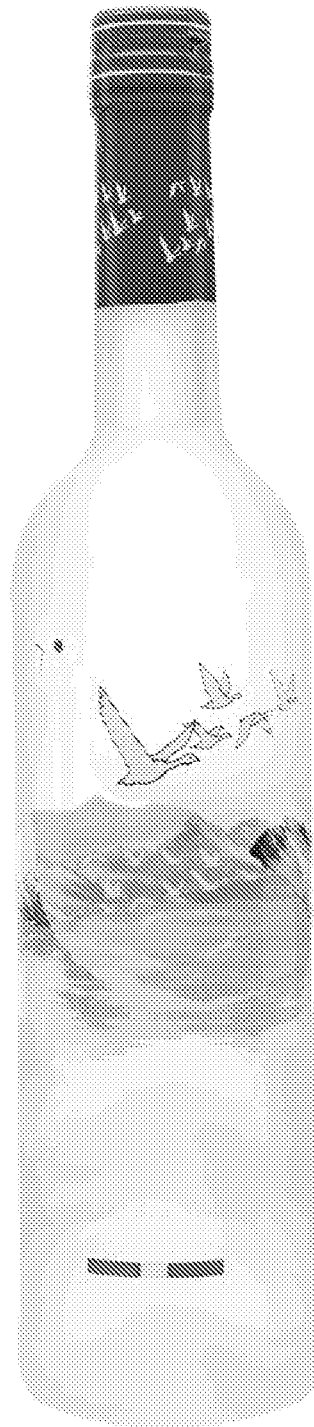
Timeline



Trade mark information

Name	(Trade mark without text)	Filing date	05/12/2017
Filing number	017563801	Registration date	23/03/2018
Basis	EUTM	Expiry date	05/12/2027
Date of receipt	05/12/2017	Designation date	
Type	Figurative	Filing language	English
Nature	Individual	Second language	French
Nice classes	33 (Nice Classification)	Application reference	TM13193EU00
Vienna Classification	03.07.06, 03.07.16, 03.07.24, 03.07.26, 19.07.01, 24.07.01, 24.07.23 (Vienna Classification)	Trade mark status	Registered
		Acquired distinctiveness	No

Graphic representation



Goods and services

English (en) ▼

33 Alcoholic beverages (except beers).

Description

No data

Owners

Bacardi & Company Limited

ID	79581	Country	LI - Liechtenstein	Correspondence address	
Organisation	Bacardi & Company Limited	State/county	n/a	Bacardi & Company Limited 267 Route de Meyrin CH-1217 Meyrin SUIZA	Hidden. You can set your contact details to be publicly available via the User Area.
Legal status	Legal entity	Town	Vaduz		
		Post code	FL-9490		Hidden. You can set your contact details to be publicly available via the User Area.
		Address	Aeulestrasse 5		Hidden. You can set your contact details to be publicly available via the User Area.

Representatives

BRANDSTOCK LEGAL RECHTSANWALTSGESELLSCHAFT MBH

ID	11068	Country	DE - Germany	Correspondence address	
Organisation	n/a	State/county	n/a	BRANDSTOCK LEGAL RECHTSANWALTSGESELLSCHAFT MBH	Hidden. You can set your contact details to be publicly available via the User Area.
Legal status	Legal person	Town	München	Rückertstr. 1 D-80336 München ALEMANIA	
Type	Association	Post code	80336		Hidden. You can set your contact details to be publicly available via the User Area.
		Address	Rückertstr. 1		Hidden. You can set your contact details to be publicly available via the User Area.

Correspondence

	From	Procedure	Filing number	Subject	Date	Actions
		Inspection request	002584139	D113 - Certified copy	13/08/2018	
		Inspection request	002584139	D108m - Request for inspection - issue of copies, extracts or communication of information	13/08/2018	
		Inspection request	002584139	Application form and attachment	13/08/2018	
	EUTM		017563801	L304 – Cover letter for registration certificate	28/03/2018	
	EUTM		017563801	Certificate	27/03/2018	
	EUTM		017563801	L101F - Receipt of an application for a European Union trade mark (EUTM) and notification that a provisional filing date has been accorded	05/12/2017	
	EUTM		017563801	Application form and attachment	05/12/2017	
	EUTM		017563801	Figurative	05/12/2017	
Showing 1 to 8 of 8 entries						

IR transformation

No data

Seniority

No data

Exhibition priority

No data

Priority

No data

Publications

Bulletin number	Date	Section	Description
2017/238	15/12/2017	A.1	Applications published under Article 44 EUTMR
2018/060	27/03/2018	B.1	Registrations with no amendments since the application was published
Showing 1 to 2 of 2 entries			

Cancellation

No data

Recordals

No data

Oppositions

No data

Appeals

No data

Decisions

No data

Renewals

No data

Trade mark relations

No data

InternationalApplications

No data

	Madrid Monitor	International Trademark
890134- GREY GOOSE		Printed: 2021-07-20 14:10

890134- GREY GOOSE

Full details / English

Current Status

- 180** Expected expiration date of the registration/renewal
22.05.2026
- 151** Date of the registration
22.05.2006
- 270** Language of the application
English
- 732** Name and address of the holder of the registration
Bacardi & Company Limited
Aeulestrasse 5
FL-9490 Vaduz (LI)
- 812** Contracting State or Contracting Organization in the territory of which the holder has a real and effective industrial or commercial establishment
LI
- 750** Address for correspondence
Bacardi & Company Limited
Route de Meyrin 267
CH-1217 Meyrin (CH)
- 740** Name and address of the representative
Brandstock Legal GmbH
Rueckertstr. 1
80336 Munich (DE)
- 540** Mark



- 531** International Classification of the Figurative Elements of Marks (Vienna Classification) - VCL(5)
03.07.06 ; 03.07.16 ; 19.07.01 ; 19.07.09 ; 29.01.15
- 591** Information concerning colors claimed
Red, blue, black and white.
- 511** International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification) - NCL(8)
33 Vodka of French origin.
- 822** Basic registration
LI, 19.01.2006, 13847
- 300** Data relating to priority under the Paris Convention and other data relating to registration of the mark in the country of origin

	Madrid Monitor	International Trademark
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- LI, 19.01.2006, 13847
- 832

Designation(s) under the Madrid Protocol

AG - AU - BH - EM - GE - JP - KR - NO - SG - TM - TR - ZM
- 834

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

AL - AM - AZ - BA - BG - BY - CU - DZ - HR - KE - KZ - LR - LS - MA - MC - ME - MK - MN - MZ - RO - RS - SD - SL - SM - UA - VN
- 527

Indications regarding use requirements

SG

Transaction History

expand none