

MADRID PROTOCOL

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

DT-ZT.IR1579492.2.mlaw

I. Office making the notification:

Patent Office of the Republic of Poland  
Trade mark Department  
Aleja Niepodległości 188/192  
P.O. Box 203  
00-950 Warsaw, Poland

Phone number: (+48) 22 579 05 55  
Fax: (+48) 22 579 00 01

II. Number of the international registration: **1579492**

III. Name of the holder:

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

IV. Provisional refusal based on an opposition

V. Total provisional refusal affects all the goods.

VI. Grounds for refusal (see item VII)

VII. Information related to the grounds of refusal:

[1] Earlier international mark app date: **05/12/2017 EUTM 017563801**

[1] Earlier European Union mark app. date: **17/08/2006 EUTM 0890134**

Details concerning the earlier marks – see appendix

VIII. Corresponding essential provisions of the applicable law (see next pages)

IX. Information related to further procedures:

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.

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

Magdalena Ławreszuk  
expert  
/document signed electronically/

XI. Date of notification to the International Bureau: 13.10.2021

## 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.

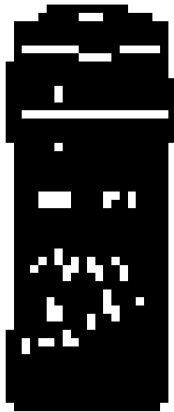
Article 236

(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.

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GREY GOOSE



## Trademark

Application number	<u>890134</u>
Application language	en
Application date	22/05/2006
Registration office	WO
Receiving office	LI
Registration number	890134
Registration date	22/05/2006
Nice classification	33
Expiry date	22/05/2026
Designation(s) under Madrid Protocol	AG-AU-BH-EM-GE-JP-KR-NO-SG-TM-TR-ZM
Designation(s) under Madrid Protocol (Article 9-6)	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
Use intent office(s)	SG
Basic registration number	13847
Basic registration date	19/01/2006
Kind of IPR	Trade mark
Trade mark type	Figurative
Kind of mark	Individual
Mark translation	
Current trade mark status	Registered
Trade mark office	WIPO - WIPO

## List of goods and services

Class	List of goods and services
33	Vodka of French origin.

## Vienna code

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03.07.06	Ducks, geese, swans
03.07.16	Birds in flight or with outspread wings
19.07.01	Bottles or flasks in circular or elliptical horizontal cross section
19.07.09	Bottles or flasks, slender
29.01.15	Five colours and over

## Owner

Applicant identifier	380950
Name	Bacardi & Company Limited
Entitlement establishment	LI
Address country	
Address	Aeulestrasse 5 FL-9490 Vaduz

## Representative

Applicant identifier	1003101
Name	Brandstock Legal GmbH
Entitlement establishment	
Address country	
Address	Rueckertstr. 1 80336 Munich

## Correspondence address

Name	Bacardi & Company Limited
Address country	CH
Address	Route de Meyrin 267 CH-1217 Meyrin

## Seniority

No entry for the Selected Trademark

## Exhibition priority

No entry for the Selected Trademark

## Priority

Number	Country	Date
13847	LI	19/01/2006

## International registration transformation

No entry for the Selected Trademark

## Publication

No entry for the Selected Trademark

## Opposition

No entry for the Selected Trademark

## Recordals

### Trade mark events

No entry for the Selected Trademark

### Record identifier :

Kind of record	Registration
Record identifier	
Record reference	
Publication date	
Record status	
Record status date	

### Record identifier :

Kind of record	Opposition possible after the 18 months time limit
Record identifier	
Record reference	
Publication date	
Record status	
Record status date	

**Record identifier :**

Kind of record	Grant of protection subject to opposition
Record identifier	
Record reference	
Publication date	
Record status	
Record status date	

**Record identifier :**

Kind of record	Grant of protection
Record identifier	
Record reference	
Publication date	
Record status	
Record status date	

**Record identifier :**

Kind of record	Grant of protection subject to opposition
Record identifier	
Record reference	
Publication date	
Record status	
Record status date	

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Kind of record	Grant of protection subject to opposition
Record identifier	
Record reference	
Publication date	
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Record status date	

**Record identifier :**

Kind of record	Grant of protection
Record identifier	
Record reference	
Publication date	
Record status	
Record status date	

**Record identifier :**

Kind of record	Total provisional refusal of protection
Record identifier	
Record reference	
Publication date	
Record status	
Record status date	

**Record identifier :**

Kind of record	Total provisional refusal of protection
Record identifier	
Record reference	
Publication date	
Record status	
Record status date	

**Record identifier :**

Kind of record Grant of protection

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record Total provisional refusal of protection

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record Grant of protection subject to opposition

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record Grant of protection

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record Renunciation

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record Total provisional refusal of protection

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record Statement indicating that protection of the mark is protected for some of the goods and services requested.

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record Total provisional refusal of protection

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record	Grant of protection
Record identifier	
Record reference	
Publication date	
Record status	
Record status date	

**Record identifier :**

Kind of record	Grant of protection
Record identifier	
Record reference	
Publication date	
Record status	
Record status date	

**Record identifier :**

Kind of record	Total provisional refusal of protection
Record identifier	
Record reference	
Publication date	
Record status	
Record status date	

**Record identifier :**

Kind of record	Total provisional refusal of protection
Record identifier	
Record reference	
Publication date	
Record status	
Record status date	

**Record identifier :**

Kind of record Subsequent designation

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record Grant of protection

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record Continuation of effect

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record Statement indicating that protection of the mark is protected for some of the goods and services requested.

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record Statement indicating that protection of the mark is refused for all of the goods and services requested.

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record Statement indicating that protection of the mark is protected for some of the goods and services requested.

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record Grant of protection

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record Renunciation

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record

Total provisional refusal of protection

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record

Statement indicating that protection of the mark is protected for some of the goods and services requested.

Record identifier

Record reference

Publication date

Record status

Record status date

**Record identifier :**

Kind of record

Designated contracting party(ies) which has not been the subject of a renewal (rule 31(4)(b))

Record identifier

Record reference

Publication date

Record status

Record status date

**Cancellation**

No entry for the Selected Trademark

**Appeals**

No entry for the Selected Trademark

**Renewals****Record identifier -**

**General Information**

Kind of record

Renewal

Record reference

Publication date

Record status

Record status date





## Trademark

Application number	<u>017563801</u>
Application language	en
Application date	05/12/2017
Registration office	EM
Receiving office	
Registration number	
Registration date	23/03/2018
Nice classification	33
Expiry date	05/12/2027
Designation(s) under Madrid Protocol	
Designation(s) under Madrid Protocol (Article 9-6)	
Use intent office(s)	
Basic registration number	
Basic registration date	
Kind of IPR	
Trade mark type	Figurative
Kind of mark	Individual
Mark translation	
Current trade mark status	Registered
Trade mark office	EUIPO - EUIPO

## List of goods and services

Class	List of goods and services
33	Alcoholic beverages (except beers).

## Vienna code

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03.07.06	Ducks, geese, swans
03.07.16	Birds in flight or with outspread wings
03.07.24	Birds stylized
03.07.26	Groups of birds or bats
19.07.01	Bottles or flasks in circular or elliptical horizontal cross section
24.07.01	One flag
24.07.23	Stylized flags

## Owner

Applicant identifier	79581
Name	
Entitlement establishment	
Address country	LI
Address	Aeulestrasse 5 FL-9490 Vaduz

## Representative

Applicant identifier	11068
Name	BRANDSTOCK LEGAL RECHTSANWALTSGESELLSCHAFT MBH
Entitlement establishment	DE
Address country	DE
Address	Rückertstr. 1 80336 München

## Correspondence address

Name	
Address country	-
Address	

## Seniority

No entry for the Selected Trademark

## Exhibition priority

No entry for the Selected Trademark

## Priority

No entry for the Selected Trademark

## International registration transformation

No entry for the Selected Trademark

## Publication

Number	Section	Date	Page
2017/238	A.1	15/12/2017	0
2018/060	B.1	27/03/2018	0

## Opposition

No entry for the Selected Trademark

## Recordals

No entry for the Selected Trademark

## Cancellation

No entry for the Selected Trademark

## Appeals

No entry for the Selected Trademark

## Renewals

No entry for the Selected Trademark