

MADRID PROTOCOL

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

DT-ZT.IR1259963.6.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: **1259963**

III. Name of the holder:

MLADEGS PAK d.o.o. Vjaka bb78430 Prnjavor, BA

IV. Provisional refusal based on **an opposition**

V. Provisional refusal affects only the following goods: **all class 30**

VI. Grounds for refusal (see item VII)

VII. Information related to the grounds of refusal: **art. 132(1) 1) 3)**

[1] Earlier European Union mark

**EUTM 013175278 BONITA (word mark) app. date: 14.08.2014**

**TM owner: FRUIT SHIPPERS LIMITED, Nassau, Bahamas**

Details concerning the earlier mark – **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: 24.01.2022

## 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.

**BONITA****Trademark**

Numer zgłoszenia	<u>013175278</u>
Język zgłoszenia	en
Data zgłoszenia	14/08/2014
Urząd rejestracji	EM
Urząd przyjmujący	
Numer rejestracji	
Data rejestracji	25/03/2016
Klasyfikacja Nicejska	29, 30, 31, 32
Data wygaśnięcia	14/08/2024
Wyznaczenie na mocy Protokołu Madryckiego	
Wskazanie(-a) zgodnie z protokołem madryckim (art. 9-6)	
Wybierz Urząd/Urzędy	
Numer podstawowej rejestracji	
Data podstawowej rejestracji	
Rodzaj prawa własności intelektualnej	
Rodzaj znaku	Słowny
Kategoria prawa	Indywidualny
Tłumaczenie znaku	
Bieżący status znaku	Zarejestrowany
Urząd ds. własności intelektualnej	EUIPO - EUIPO

**Wykaz towarów i usług**

Klasa	Wykaz towarów i usług
29	Meat, fish, poultry and game except in frozen form; meat extracts except in frozen form; milk and milk products except in frozen form; eggs except in frozen form; preserved, dried, baked, cooked and preserved fruits and vegetables; jellies, jams, compotes; Fruit salads; Fruit-based snack food.

- 30 Sugar except in frozen form; natural sweeteners except in frozen form; bakery products, bread, yeast except in frozen form; pasta, baking-powder, flour, spices, and flavourings except in frozen form; honey and honey substitutes except in frozen form; food products based on rice, flour or cereals, also in the form of cooked dishes except in frozen form; Coffee; coffee extracts and coffee-based preparations; coffee substitutes and extracts of coffee substitutes; coffee beans; unroasted coffee; ground coffee; decaffeinated coffee; instant coffee; coffee drinks; coffee beverages; coffee mixtures; flavoured coffee; roasted coffee beans; ground coffee beans; prepared coffee and coffee-based beverages; coffee based drinks; coffee in brewed; coffee in ground form; coffee beverages with milk; ice beverages with a coffee base; filters in the form of paper bags filled with coffee, tea, tea extracts and tea-based preparations; cocoa and preparations having a base of cocoa, chocolate, chocolate products; puddings; breakfast cereals, rice, pasta, also in the form of cooked dishes; fruit sauces; none of the afore-mentioned goods being confectionery, ice, ice cream, ice cream confections, chocolate spread, cakes, biscuits or mousses.
- 31 Fresh fruits and vegetables live animals; seeds; foodstuffs for animals, malt; agricultural, horticultural and forestry products and grains not included in other classes and excluding natural plants and flowers.
- 32 Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages; fruit extracts; fruit nectars, non-alcoholic; smoothies.

## Klasyfikacja Wiedeńska

No entry for the Selected Trademark

## Właściciel

Numer ID	50464
Nazwa	
Przedsiębiorstwo	
Kraj	BS
Adres	Third Floor, Charlotte House, Charlotte Street 10051 Nassau

## Pełnomocnik

Numer ID	36405
Nazwa	PONS CONSULTORES DE PROPIEDAD INDUSTRIAL, S.A.
Przedsiębiorstwo	ES
Kraj	ES
Adres	Glorieta Rubén Darío, 4 28010 Madrid

## Adres do korespondencji

Nazwa	
Kraj	-
Adres	

## Starszeństwo

No entry for the Selected Trademark

## Pierwszeństwo z wystawy

No entry for the Selected Trademark

## Pierwszeństwo

No entry for the Selected Trademark

## Przekształcenie rejestracji międzynarodowej

No entry for the Selected Trademark

## Publikacja

Numer pierwszeństwa	Sekcja	Data	Strona
2014/182	A.1	29/09/2014	0
2015/009	C.2.1	15/01/2015	0
2016/059	B.2	30/03/2016	0
2019/002	C.2.2	04/01/2019	0
2019/041	C.3.2	28/02/2019	0

## Sprzeciw

### Numer postępowania sprzeciwowego 002453762

#### General Information

Data postępowania sprzeciwowego	18/12/2014
Numer postępowania sprzeciwowego	1218-14
Język postępowania	en
Podstawa sprzeciwu	
Przyczyna sprzeciwu	
	Likelihood of confusion
Status sprzeciwu	Withdrawn
Data statusu	23/03/2016

#### Wcześniejsze znaki

Kraj	EM
Numer zgłoszenia	006441976
Data zgłoszenia	15/11/2007
Numer rejestracji	006441976
Data rejestracji	30/08/2012
Nazwa znaku towarowego	
Rodzaj znaku	
Podstawa sprzeciwu	
Przyczyna sprzeciwu	
	Likelihood of confusion

**Dane osoby wnoszącej sprzeciw**

Numer ID	132760
Nazwa	
Nazwa organizacji	
Forma prawna	Legal Entity
Kod narodowości zgłaszającego	DE
Kraj	DE
Kraj	Nördliche Münchener Straße 27 A 82031 Grünwald
Ulica	
Miasto	
Kod pocztowy	

**Dane pełnomocnika**

Numer ID	31672
Nazwa	ORTH KLUTH RECHTSANWÄLTE PARTNERSCHAFTSGESELLSCHAFT MBB
Forma prawna	Legal Person
Rodzaj przedstawiciela	Association
Obywatelstwo	DE
Kraj	DE
Kraj	Kaistrasse 6 40221 Düsseldorf
Ulica	
Miasto	
Kod pocztowy	
Telefon	
Faks	

**Postępowanie sprzeciwowe**

No entry for the Selected Trademark

**Numer postępowania sprzeciwowego 002454984****General Information**

Data postępowania sprzeciwowego 30/12/2014

Numer postępowania sprzeciwowego Bon-Nadal

Język postępowania en

Podstawa sprzeciwu

Przyczyna sprzeciwu

Identity of marks and G&S

Likelihood of confusion

Status sprzeciwu Closed

Data statusu 16/09/2015

**Wcześniejsze znaki**

Kraj EM

Numer zgłoszenia 006717748

Data zgłoszenia 03/03/2008

Numer rejestracji 006717748

Data rejestracji 29/07/2009

Nazwa znaku towarowego

Rodzaj znaku

Podstawa sprzeciwu

Przyczyna sprzeciwu

Identity of marks and G&S

Likelihood of confusion

Kraj	ES
Numer zgłoszenia	1634844
Data zgłoszenia	09/05/1991
Numer rejestracji	1634844
Data rejestracji	28/12/1994
Nazwa znaku towarowego	
Rodzaj znaku	
Podstawa sprzeciwu	
Przyczyna sprzeciwu	
	Identity of marks and G&S
	Likelihood of confusion

Kraj	ES
Numer zgłoszenia	1634845
Data zgłoszenia	09/05/1991
Numer rejestracji	1634845
Data rejestracji	04/02/1994
Nazwa znaku towarowego	
Rodzaj znaku	
Podstawa sprzeciwu	
Przyczyna sprzeciwu	
	Identity of marks and G&S
	Likelihood of confusion

**Dane osoby wnoszącej sprzeciw**

Numer ID	307949
Nazwa	
Nazwa organizacji	
Forma prawna	Legal Entity
Kod narodowości zgłaszającego	ES
Kraj	ES
Kraj	Avda. Estación, 33 30570 Beniajan (Murcia)
Ulica	
Miasto	
Kod pocztowy	

**Dane pełnomocnika**

Numer ID	41588
Nazwa	DAMASO GESTIÓN ASOCIADOS
Forma prawna	Legal Person
Rodzaj przedstawiciela	Association
Obywatelstwo	ES
Kraj	ES
Kraj	Calle Infanta Elena nº 1 46138 Rafelbunyal (Valencia)
Ulica	
Miasto	
Kod pocztowy	
Telefon	
Faks	

**Postępowanie sprzeczowe**

No entry for the Selected Trademark

**Wpisy w rejestrze****Postępowanie w sprawie znaku towarowego**

No entry for the Selected Trademark

**Identyfikator wpisu : 015331500**

Wpis	Znak towarowy - częściowe zrzeczenie się
Identyfikator wpisu	015331500
Numer wpisu	
Data publikacji	28/02/2019
Status wpisu	Opublikowano
Data wpisu	01/03/2019

**Identyfikator wpisu : 015283735**

Wpis	Przedstawiciel – Zastąpienie przedstawiciela
Identyfikator wpisu	015283735
Numer wpisu	
Data publikacji	04/01/2019
Status wpisu	Opublikowano
Data wpisu	07/01/2019

**Identyfikator wpisu : 009158026**

Wpis	Pełnomocnik – zmiana nazwy/imienia i nazwiska i adresu siedziby
Identyfikator wpisu	009158026
Numer wpisu	
Data publikacji	15/01/2015
Status wpisu	Opublikowano
Data wpisu	15/01/2015

**Unieważnienie**

No entry for the Selected Trademark

**Odwołania**

No entry for the Selected Trademark

**Przedłużenia**

No entry for the Selected Trademark