



Montenegro
Ministry of Economic Development
Directorate for Internal Market and Competition

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Number: 626-136/2022-2

Date: 24.01.2022.

World Intellectual Property Organization
International Bureau
34, chemin des Colombettes, P.O.Box 18,
1211 Geneva 20, Switzerland

Link: WIPO Gazette of International Marks

Subject: Ex officio total provisional refusal for IR 1574744

Dear Madam/Sir,

In Accordance with the Rule 17(1) of the Madrid Agreement and Protocol, we are sending attached the ex officio total provisional refusal for the trademark IR 1574744.

For any further questions, we remain at your disposal.

Yours sincerely,


MPhil Jakov Milatović
MINISTER

Delivered: World Intellectual Property Organization, International Bureau
34, chemin des Colombettes, P.O.Box 18, 1211 Geneva 20, Switzerland

Contact person:
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Model Form 3

MADRID AGREEMENT AND PROTOCOL

PROVISIONAL REFUSAL OF PROTECTION

Rule 17(1)

This form is to be used in the following situation: the Office considers that protection cannot be granted in the Contracting Party concerned (ex officio provisional refusal) or protection cannot be granted in the Contracting Party concerned because an opposition has been filed, or both. In due course, once all the procedures before the Office have been completed, the Office shall send to the International Bureau a statement regarding the final disposition on the status of the mark, using Model Forms 5 or 6, as the case may be.

I.	Office making the notification: Ministry of Economic Development, Montenegro Rimski trg 46, 81000 Podgorica, Montenegro Tel: 00382 20 234 592
II.	Number of the international registration: IR 1574744
III.	Name of the holder (or other indication enabling the identity of the international registration to be confirmed): Biosoft (Australia) Pty Ltd 14/13a Narabang Way, Belrose, NSW, 2085 (AU)
IV.	☒ Provisional refusal based on an <i>ex officio</i> examination ☐ Provisional refusal based on an opposition ¹ ☐ Provisional refusal based on both an <i>ex officio</i> examination and an opposition ¹
V.	☒ Provisional refusal for all the goods and/or services ☐ Provisional refusal for some of the goods and/or services,

¹ The name and address of the opponent should also be provided.

VI. Grounds for refusal [(where applicable, see item VII)]:

Trademark Law ("The Official Gazette of Montenegro", no. 72/10, 44/12, 18/14, 40/16 and 2/17)

Absolute grounds for refusal, Article 6, par. 1, p. 2 and 3.

A trademark shall not be used to protect a mark:

2) devoid of any distinctive character;

3) consisting exclusively of signs or indications which in trade serve to designate a kind, quality, quantity, intended purpose, value, or time of production of the goods or rendering of the services or other characteristics of the goods or services;

The mark "Dermapen" is devoid of any distinctive character because it indicates a characteristics of the goods. Therefore, it cannot function as a trademark.

VII. Information relating to an earlier mark² :

- (i) Filing date and number, and, if any, priority date:
- (ii) Registration date and number (if available):
- (iii) Name and address of the owner:
- (iv) Reproduction of the mark:
- (v) List of all or relevant goods and/or services

VIII. Corresponding essential provisions of the applicable law [(see text under XII)]:

IX. Information relating to subsequent procedure:

(i) Time limit for requesting review or appeal: within four months from the date of issuance the written notification of refusal of the competent authority.

(ii) Authority to which such request for review or appeal should be made: Ministry of Economic Development, Rinski trg br. 46, 81000 Podgorica, Montenegro.

(iii) Indications concerning the appointment of a representative: a domestic representative from Montenegro, the list can be found at: <http://www.advokatskakomora.me/>.

² Where the grounds on which the provisional refusal is based relate to an earlier mark, as indicated under item VI. The indication required under this item may be given by annexing a printout from the register or database.

X. Date of the notification of provisional refusal:

24.01.2022.

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

Ministry of Economic Development
Directorate for Internal Market and Competition
Department for Intellectual Property
Dragana Ranitović, Head of Department



XII. Corresponding essential provisions of the applicable law:

II. REGISTRATION PREREQUISITES

Absolute Grounds for Refusal of a Registration

Article 6

A trademark shall not be used to protect a mark:

- 1) Which cannot be graphically represented and a mark which cannot constitute a trademark in accordance with Article 2 of the present Law;
- 2) devoid of any distinctive character;
- 3) consisting exclusively of signs or indications which in trade serve to designate a kind, quality, quantity, intended purpose, value, or time of production of the goods or rendering of the services or other characteristics of the goods or services;
- 4) Consisting exclusively of indications which in trade serve to designate geographical origin of the goods and/or services;
- 5) Consisting exclusively of indications that have become customary in the current language or in the bona fide established practice of trade;
- 6) Consisting exclusively of a shape which results from the nature of the goods or a shape of goods which is necessary to obtain a technical result or of a shape which gives substantial value to the goods;
- 7) Which is contrary to public policy or accepted principles of morality;
- 8) Which is of such a nature as to deceive the public in particular with regard to the nature, quality or geographical origin of the goods or services;
- 9) Which cannot be registered in accordance with Article 6^{ter} of the Paris Convention;
- 10) Which represents a national or religious symbol;
- 11) Which contains official marks or hallmarks used for quality control or guarantee;
- 12) Which contains or consists of geographical indication identifying wines and spirits, with respect to such wines and spirits not having that origin;

13) Which contains or consists of a geographical indication effective in Montenegro, if the application for the registration of a trademark has been submitted after the date of filing of the application for the registration of the geographical indication and to the extent determined by regulations governing the registration of geographical indication and regarding the same type of goods or services;

14) If the filed application is contrary to good business practices.

Trademark registration shall not be refused and a trademark shall not be declared invalid pursuant to paragraph 1 items 2, 3 and 4 of the present Article, if before the date of filing of the application for the registration of such trademark had acquired a distinctive character through use which has been made of it in the marketplace.