**THE PROTOCOL**
**RELATING TO THE MADRID AGREEMENT**
**CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS**

# PROVISIONAL REFUSAL OF PROTECTION

**Rule 17(1)**

**I.** **STATE PATENT BUREAU**
**OF THE REPUBLIC OF LITHUANIA**
**Kalvarijų g. 3, LT-09310 Vilnius**
**LITHUANIA**

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http://www.vpb.lrv.lt/

**II.** Number of the international registration: **1762051**

Verbal elements of the mark: **AR ANNY REY, *fig.***

**III.** Name of the holder: **Individual entrepreneur Zabrodina Inna Markovna, RU**

**IV.** Provisional refusal based on an *ex officio* examination.

**V.** ☒ Provisional refusal for all the goods and/or services.
☐ Provisional refusal for the following goods and/or services.*

**VI.** Grounds for refusal and motives:* Article 7(1) (6)

**VII.** Information relating to subsequent procedure:

The proprietor of the international registration may argue against the decision of the State Patent Bureau within three months from the day of making of the decision. The request for the re-examination should be addressed to the Trademarks and Designs Division. The set time limit expires on **03/01/2025** Following the filing of a written request and payment of a fixed fee, the time limit may be extended once but for not longer than one month from the day of expiry of the initial time limit. If no request is received within this time limit, the decision of the State Patent Bureau will become final.

The request should be presented in Lithuanian language. If the proprietor of the international registration is not a resident of Lithuania or another member state of the European Union or any other State of the European Economic Area, neither he has subsidiary or representation registered in the Republic of Lithuania or another member state of the European Union or any other State of the European Economic Area, the request for the re-examination should be filed through a patent attorney of the Republic of Lithuania. The list of patent attorneys is available on http://www.vpb.lrv.lt/.

If the proprietor of a mark of international registration disagrees with the decision made by the State Patent Bureau in the course of re-examination he may file an appeal to the Appeal Division within two months from the day of making of the decision.

**VIII.** Date of the notification of provisional refusal: **03/10/2024**

**IX.** Signature or official seal of the Office making the notification:

Adviser of the Trademarks and Designs Division Asta Dapkė

* - if the space available is insufficient, see a continuation sheet

Number of continuation sheets: 4

**CONTINUATION SHEET**

## VI. Grounds and motives for refusal:

### Absolute grounds of refusal in accordance with Article 7(1)

A mark shall be refused registration or the registration of a trade mark shall be declared invalid if:

6) the mark is contrary to public policy or good moral;

**Motives:**

Following the provisions of Article 5s of Council Regulation (EU) No. 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine as amended by Regulation (EU) No. 2024/1745 of 24 June 2024 (14th sanctions package), an international registration AR ANNY REY AR ANNY REY No. 1762051 of mark “AR ANNY REY” (holder is a Russian national or a natural person residing in Russia) is treated as contrary to public policy.

## X. Corresponding essential provisions of the Lithuanian Law on Trade Marks:

**Article 5. Signs of which a Trade Mark may Consist**

A trade mark may consist of any signs, in particular words, including personal names, or designs, letters, numerals, colours, the shape of goods or of the packaging of goods, or sounds, provided that such signs are capable of:

1) distinguishing the goods or services of one undertaking from those of other undertakings;

2) being represented on the Register of Trade Marks of the Republic of Lithuania (hereinafter referred to as the Register) in a manner, which enables the competent authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor.

**Article 6. Disclaimers**

A mark may consists of elements ineligible for registration as separate (independent) marks. Such mark may be protected only as a whole if there are no grounds laid down in paragraph 1 of Article 7 of this Law. The elements shall be recognised as disclaimers and shall not extend the proprietor of the mark exclusive rights thereto.

**Article 7. Absolute Grounds for Refusal of Registration or Invalidation of Registration of a Mark**

1. A mark shall be refused registration or the registration of a trade mark shall be declared invalid if:

1) the mark is composed of signs, which do not comply, with the provisions of Article 5 of this Law;

2) the mark is devoid of any distinctive character;

3) the mark consists exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service or other characteristics of the goods or services, except as specified in paragraph 2 of Article 30 and paragraph 2 of Article 31 of this Law;

4) the mark consists only of such signs or indications that have become customary in the current language or in the *bona fide* and established practices of the trade;

5) the mark consists of:

a) the shape or other characteristics, which results from the nature of the goods themselves;

b) the shape of goods or other characteristics, which are necessary to obtain a technical result;

c) the shape or other characteristics, which gives substantial value to the goods;

6) the mark is contrary to public policy or good moral;

7) the mark may mislead the public, for instance as to the nature, quality or geographical origin of the goods or services;

8) the mark consists of or contains the official symbols of the Republic of Lithuania, or it imitates them, unless the permission has been issued according to the established procedure by the Minister of Justice of the Republic of Lithuania;

9) the mark consists of other coats of arms or other insignias under the Law on the National Coat of Arms and Other Insignias of the Republic of Lithuania, or is composed of or contains distinguishing marks of the state institutions the official use of which is governed by the law, unless consent has been obtained from the competent authorities;

10) it consists of or contains the signs the registration of which has not been authorised by the competent authorities of other states or international organisations and the registration of which is to be refused or invalidated pursuant to Article 6ter of the Paris Convention for the Protection of Industrial Property of 20 March 1883, as revised at Stockholm on 14 July 1967, and amended on 28 September 1979 (hereinafter referred to as the Paris Convention);

11) it consists of or contains a sign of high symbolic value, in particular a religious symbol;

12) it must be excluded from registration pursuant to European Union legislation or international agreements to which the European Union or the Republic of Lithuania is a party, providing for protection of designations of origin and geographical indications;

13) it must be excluded from registration pursuant to European Union legislation or international agreements to which the European Union is a party, providing for protection of traditional terms for wine;

14) it must be excluded from registration pursuant to European Union legislation or international agreements to which the European Union is party, providing for protection of traditional specialities guaranteed;

15) it consists of, or reproduce in their essential elements, an earlier plant variety denomination registered in accordance with European Union legislation or the Law on the Protection of Plant Varieties of the Republic of Lithuania, or international agreements to which the European Union or the Republic of Lithuania is a party, providing protection for plant variety rights, and which is in respect of plant varieties of the same or closely related species;

2. A mark shall not be refused registration and its registration may not be invalidated in accordance with subparagraphs 2, 3 or 4 of paragraph 1 of this Article, if, before the date of application for registration, after the date of filing of the application till the registration of the mark, following the use which has been made of it, it has acquired distinctive character. A trade mark shall not be declared invalid for the same reasons if, before the date of application for a declaration of invalidity, following the use, which has been made of it, it has acquired a distinctive character...

**Article 30. Certification Marks**

1. A mark may be registered as a certification mark provided the applicant is competent to certify the goods or services for which the mark is to be registered and provided the applicant does not carry on a business involving the supply of goods or services of the kind certified.

2. Signs or indications, which may serve, in trade, to designate the geographical origin of the goods or services may constitute certification marks. Such a certification mark shall not entitle the proprietor to prohibit a third party from using in the course of trade such signs or indications, provided that third party uses them in accordance with honest practices in industrial or commercial matters. In particular, a mark may not be invoked against a third party who is entitled to use a geographical name.

3. A certification mark shall be deemed used where genuine use of a certification mark in accordance with Article 20 is made by any person who has the authority to use it.

4. The provisions of Chapter III of this Law shall apply *mutatis mutandis* to the registration of a certification mark.

**Article 31. Right to a Collective Mark**

1. A mark can be registered as a collective mark if the applicant is a union of persons according to paragraph 7 of Article 2.

2. Signs or indications which may serve, in trade, to designate the geographical origin of the goods or services may constitute collective marks. Such a collective mark shall not entitle the proprietor to prohibit a third party from using in the course of trade such signs or indications, provided that third party uses them in accordance with honest practices in industrial or commercial matters. In particular, there a third party is entitled to use a geographical name.

**Article 32. Use of a Collective Mark and Regulations Governing the Use**

1. The regulations governing the use of a collective mark shall be submitted with the application for the collective mark and shall contain the following data:

1) the name and the headquarters of the union of persons in the name whereof an application for registration of a collective mark has been filed;

2) the purpose of the union of persons and representation procedure;

3) membership conditions;

4) information relating to the union members who have authority to use a collective mark;

5) a reproduction of the mark in accordance with subparagraph 2 of paragraph 5 of Article 38 of this Law;

6) goods and/or services in respect of which the collective mark is applied for;

7) terms and conditions of the use of a collective mark;

6) rights and obligations of the union members and their responsibility in case of non-fulfilment of the conditions of use of a collective mark and infringement of rights to it.

2. The regulations governing use of a mark referred to in paragraph 2 of Article 31 shall authorise any person whose goods or services originate in the geographical area concerned to become a member of the association which is the proprietor of the mark, provided that the person fulfils all the other conditions of the regulations…

**Article 33. Refusal of an Application for a Collective Mark**

1. An application for a collective mark shall be refused if: …

3) it does not comply with the concept of a collective mark referred to in paragraph 7 of Article 2 of this Law;

4) the provisions of Article 31 or paragraph 1 or 2 of Article 32 of this Regulation are not complied with;

5) regulations governing use of a collective mark are contrary to public policy or good morale;

6) the public is liable to be misled as regards the character or the significance of the mark, in particular if it is likely to be taken to be something other than a collective mark…

**Article 41. Indication and Classification of Goods and Services**

1. The goods and services in respect of which trade mark registration is applied for shall be classified in conformity with the Nice Classification valid at the date of filing of an application by grouping and assigning them to a particular class, each group being preceded by the number of the class to which that group of goods or services belongs, and shall present them in the order of the classes.

2. The goods and services for which protection is sought shall be identified by the applicant with sufficient clarity and precision to enable the competent authorities and economic operators, on that sole basis, to determine the extent of the protection sought. The general indications included in the class headings of the Nice Classification or other general terms may be used provided that they comply with the requisite standards of clarity and precision set out in this Article. The use of general terms, including the general indications of the class headings of the Nice Classification, shall be interpreted as including all the goods or services clearly covered by the literal meaning of the indication or term and shall not cover goods or services, which cannot be so understood.

3. The State Patent Bureau shall reject an application in respect of the goods or services which are not in line with the requirements laid down in paragraphs 1 and 2 of this Article, or Regulations for the Registration of Trade Marks if the applicant fails to provide the wording of the goods or services that meet the requirements of paragraph 2 of this Article and fails to remedy the deficiencies identified by the State Patent Bureau…

**Article 42. Examination of Application**

1. Upon examination of the application, the State Patent Bureau shall verify whether the submitted application complies with the requirements set out in Articles 38, 40 and 41 of this Law.

2. Having identified any deficiencies during the examination of the application, the two-month period from the date of dispatch of the notice shall be determined for their remedy.

**Article 45. Filing of Appeal**

1. An applicant who disagrees with the decision adopted by the State Patent Bureau during the re-examination shall have the right to file with the Appeals Division of the State Patent Bureau, within two months from the day of sending of the said decision, a written appeal with a substantiated request for a review of the findings of the examination. A fixed fee must be paid for the filing of an appeal.

2. Appeals shall be examined in written or oral proceedings at the Appeals Division... When an appeal is examined in oral proceedings at the Appeals Division, the applicant and (or) his representative shall be invited to the proceedings; however, failure to attend the proceedings shall not prevent from examination of an appeal...

**Article 55. Extension of Time Limits**

Following the filing of a written request and payment of a fixed fee by an applicant, a proprietor of a mark or a holder of an international registration, the time limits provided for in paragraph 2 of Article 42, paragraph 3 of Article 43, paragraph 1 of Article 45, paragraphs 1 and 6 of Article 54, paragraphs 1 and 2 of Article 68 of this Law may be extended once but for not longer than one month from the day of expiry of the initial time limit.

**Article 65. Invalidity and Revocation of International Registration**

1. Where a mark which has been the subject of an international registration does not satisfy the requirements of paragraphs 1 or 2 of Article 7, subparagraphs 3 - 6 of paragraph 1 of Article 33 or paragraph 2 of Article 41 of this Law or if an opposition is filed in the manner prescribed by this Law in respect of the registration of the mark, the State Patent Bureau shall notify the International Bureau within the time limit set by the Madrid Protocol that the protection of the mark is fully or partially refused in the Republic of Lithuania...

**Article 68. Special Provisions Applicable to the International Registration of a Trade Mark**

1. If the holder of the international registration opposes the decision of the State Patent Bureau to refuse to grant protection because the mark does not satisfy the requirements of paragraph 1 or 2 of Article 7 of this Law, he shall be entitled to request re-examination within three months from the day of making of the decision. If he fails to file the request within the set time limit, the decision of the State Patent Bureau shall be deemed final.

2. If the holder of the international registration objects to the decision made by the State Patent Bureau refusing to grant the protection on the grounds referred to in subparagraphs 3–6 of paragraph 1 of Article 33 or paragraph 3 of Article 41 of this Law, he shall be entitled to file, within two months from the day of dispatch of this decision, an appeal to the Appeals Division according to the procedure set forth in Article 45 of this Law...

6. If the mark, which is the subject of the international registration, is a collective mark, its proprietor must provide the regulations governing use of the collective mark and their translation into the official language within two months of the date of publication of the international registration in the Gazette of International Marks of the International Bureau.

7. If the mark, which is the subject of the international registration, is a certification mark, its proprietor must provide a document certifying its right to perform the certification function and its translation into the official language within two months of the date of publication of the international registration in the Gazette of International Marks of the International Bureau...

**Corresponding provisions of the Lithuanian Law on International Sanctions:**

**Article 2. Definitions**

1. 'Restrictive measures' means the totality of restrictions and obligations imposed by laws of the Republic of Lithuania.

2. 'Sanctioned entity' means a state or a part thereof, a territory (zone of specific status), a natural or legal person, any other organisation or a group of natural or legal persons and/or a group of organisations subject to international sanctions or restrictive measures imposed by laws of the Republic of Lithuania.

3. 'International sanctions' means the totality of restrictions and obligations imposed by legal acts of the European Union, by decisions of the United Nations and other international organisations of which the Republic of Lithuania is a member or in which it participates that are directly applicable in the Republic of Lithuania or are implemented in accordance with the procedure laid down by this Law.