

**Notification of provisional refusal of protection based on an opposition  
(Article 5 of the Madrid Protocol and Rule 17(1) and (2) of the Regulations under the  
Protocol relating to the Madrid Agreement and Article 78 EUTMDR)**

Alicante, 21/10/2024

*International registration No:* **1791838**  
*Date of notification to EUIPO:* **30/05/2024**  
*Trade mark:* **WILD SPLASH**  
*Holder:* **Cirkul, Inc.  
4914 Joanne Kearney Blvd.  
Tampa FL 33619  
United States**  
*Opposition number:* **B 003224567**

Protection of the abovementioned mark is provisionally refused for the European Union.

The provisional refusal is based on the fact that an opposition has been filed against the international registration.

The Office has notified the opposition separately to the holder of the international registration, including all evidence on which it is based, pursuant to Article 6(1) EUTMDR.

The notification sets a time limit of two months (including relevant notification offset) starting on the day the Office issues the notification, that is until **31/12/2024** for the holder to appoint a representative within the meaning of Article 120(1) EUTMR. Protection of the international registration designating the European Union will be refused in its entirety if the holder fails to appoint a representative within the time limit. In addition, the notification opens an (extendable) cooling-off period, a further period for the opponent to substantiate the opposition and a period for the holder of the international registration to submit observations.

I. The grounds for opposition are as follows.

**- Conflict with an earlier mark because of likelihood of confusion (Article 8(1)(b) EUTMR);**

II. Name and address of the opposing party:

**ADM WILD Europe GmbH & Co. KG  
Rudolf-Wild-Str. 107-115  
D-69214 Eppelheim  
Germany**

Name and address of the representative:

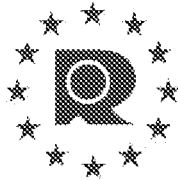
**GRÜNECKER PATENT- UND RECHTSANWÄLTE PARTG MBB**  
**Leopoldstr. 4**  
**D-80802 München**  
**Germany**

III. The opposition is based on a mark which was the subject of an application or registration.

- type of mark : **EUTM Registration**
- filing date, registration date and, if applicable, priority date: **17/07/2018 - 09/05/2019**
- filing number and, if different, registration number: **EUTM 017931111**
- reproduction of the mark: (see annex)
- list of goods on which the opposition is based: (see annex)

The opposition is based on more than one earlier right: (see annex)

IV. **The provisional refusal relates to all the goods covered by the designation of the European Union.**



**Caroline TINSEL - VOEGTLER**

Enclosures

Alicante, 30/09/2024

GRÜNECKER PATENT- UND  
RECHTSANWÄLTE PARTG MBB  
Leopoldstr. 4  
80802 München  
Germany

### Receipt of notice of opposition

|                                  |   |
|----------------------------------|---|
| <i>Number of the opposition:</i> | 003224567   |
| <i>Your reference:</i>           | WE38921-AFMSeui   |
| <i>Trade mark:</i>               | W01791838   |
| <i>Opponent:</i>                 | ADM WILD Europe GmbH & Co. KG<br>Rudolf-Wild-Str. 107-115<br>69214 Eppelheim<br>Germany |

Your notice of opposition, directed against the abovementioned trade mark, was received by the Office on **30/09/2024 at 12:11:11** .

It was given the above opposition number.

**Please quote this number in all future communications regarding the opposition.**

Please note that EUIPO will not send an invoice.

**Operations Department**

#### Thank you for filing online

Our online services make it easier for you to file your notice of opposition, send attachments and spot any mistakes. Filing online is also quicker and safer than using fax or post, as you can be sure your notice of opposition reaches EUIPO instantly via our secure servers.

|  |   |
|--|---|
| Date of receipt (DD/MM/YYYY)<br>30/09/2024 | Number of pages (including this one)<br>5 |
|--|---|

### Acknowledgement of receipt of a Notice of opposition

Your notice of opposition has been submitted successfully.  
We thank you for choosing to use the online OPPOSITION form.

|                           |                            |
|---------------------------|----------------------------|
| Opposition number:        | 003224567                  |
| Date of submission:       | 30/09/2024                 |
| Time of submission:       | 12:11                      |
| Number of attached files: | 0                          |
| Payment method:           | Current account with EUIPO |
| Payment ID number:        | 24EVF7Y6                   |

Please indicate the opposition number in any further communication with the EUIPO.

## NOTICE OF OPPOSITION

Your reference: WIE38921-AFMSeui

|   |   |
|---|---|
| <b>Opponent(s)</b>                              | Opponent EUIPO ID: <span style="border: 1px solid black; padding: 2px;">12642</span>  |
| Name of legal entity or first name and surname: | ADM WILD Europe GmbH & Co. KG   |
| Type:   | Legal Entity  |
| Street address:                                 | Rudolf-Wild-Str. 107-115  |
| City:   | Eppelheim   |
| Postal Code:                                    | 69214   |
| Country:  | Germany   |
| Postal address (if different):                  | ADM WILD Europe GmbH & Co. KG<br>Rudolf-Wild-Str. 107-115<br>D-69214 Eppelheim<br>Germany   |
| Telephone number:                               |   |
| E-mail address:                                 |   |
| Website:  |   |
| <b>Representative(s)</b>                        | EUIPO representative ID: <span style="border: 1px solid black; padding: 2px;">10111</span>  |
| Name or legal name:                             | GRÜNECKER PATENT- UND RECHTSANWÄLTE PARTG MBB   |
| Type:   | Association   |
| Street address:                                 | Leopoldstr. 4   |
| City:   | München   |
| Postal Code:                                    | 80802   |
| Country:  | Germany   |
| Postal address (if different):                  | Grünecker Patent- und Rechtsanwälte PartG mbB<br>Leopoldstr. 4<br>D-80802 München<br>Germany  |
| Telephone number:                               |   |
| E-mail address:                                 |   |
| Website:  |   |
| <b>Challenged entity</b>                        | Challenged registration ID: <span style="border: 1px solid black; padding: 2px;">W01791838</span>   |
| Type of entity:                                 | IR  |
| Name of the owner/holder:                       | Cirkul, Inc.  |
| Designation date:                               | 07/03/2024  |
| Representation of the trade mark:               | WILD SPLASH   |
| Trade mark type:                                | Word  |
| <b>Language of proceedings</b>                  | <input checked="" type="checkbox"/> First language: EN (English) <input type="checkbox"/> Second language: DE (German)  |
| <b>Extent of the application</b>                | <input checked="" type="checkbox"/> Against all the goods and services<br><input type="checkbox"/> Against some of the goods and services   |
| <b>Class</b>                                    | <b>Goods and services</b>   |
| 32 (EN)   | Flavored waters, sports and energy drinks, soft drinks, fruit drinks, fruit-based beverages, and mineral waters; syrups and liquid concentrates for making flavored waters, sports and energy drinks, soft drinks, fruit drinks, fruit- |

## NOTICE OF OPPOSITION

based beverages, and mineral waters; beverage ingredient cartridges containing liquid ingredients, namely, syrups and liquid concentrates for making flavored waters, sports and energy drinks, soft drinks, fruit drinks, fruit-based beverages, and mineral waters.

### Grounds for opposition

#### Selected ground number 1

Article 8(1)(b) EUTMR - There exists a likelihood of confusion on the part of the public

#### Basis of opposition

|                             |                               |
|-----------------------------|-------------------------------|
| Type of basis               | EUTM/A                        |
| Name of the owner/applicant | ADM WILD Europe GmbH & Co. KG |
| Application date            | 17/07/2018                    |
| Filing number               | 017931111                     |
| Registration number         | 017931111                     |
| Registration date           | 09/05/2019                    |
| Expiry date                 | 17/07/2028                    |
| Trade mark type             | Word                          |
| Verbal elements             | WILD                          |

The opposing party accepts that the necessary information for this trade mark is imported from the relevant online official database, accessible through TMVIEW, and that this source is used for substantiation purposes without prejudice to its right or obligation to provide any additional information that may be necessary to comply with the substantiation requirements of Article 7(2) and (4) EUTMDR

#### Goods and services used as basis

- Based on all the goods and services  
 Based on part of the goods and services, namely:

| Class   | Goods and services   |
|---------|--|
| 32 (EN) | Essences for making non-alcoholic drinks, not in the nature of essential oils; Concentrates for use in the preparation of soft drinks; Fruit drinks; Juices; Fruit nectars, non-alcoholic. |

#### Entitlement

- Owner/Co-owner  Authorised licensee  
 Person authorised under the applicable law

#### Selected ground number 2

Article 8(1)(b) EUTMR - There exists a likelihood of confusion on the part of the public

#### Basis of opposition

|                                     |                               |
|-------------------------------------|-------------------------------|
| Type of basis                       | EUTM/A                        |
| Name of the owner/applicant         | ADM WILD Europe GmbH & Co. KG |
| Application date                    | 24/03/1997                    |
| Filing number                       | 000496620                     |
| Registration number                 | 000496620                     |
| Registration date                   | 29/09/1999                    |
| Expiry date                         | 24/03/2027                    |
| Trade mark type                     | Figurative                    |
| Representation of the earlier right |                               |

## NOTICE OF OPPOSITION

|  |   |
|--|---|
|  |   |
| Verbal elements  | <input type="checkbox"/> Colour(s) claimed<br>WILD  |
| <input checked="" type="checkbox"/> The opposing party accepts that the necessary information for this trade mark is imported from the relevant online official database, accessible through TMVIEW, and that this source is used for substantiation purposes without prejudice to its right or obligation to provide any additional information that may be necessary to comply with the substantiation requirements of Article 7(2) and (4) EUTMDR |   |
| <b>Goods and services used as basis</b> <input type="checkbox"/> Based on all the goods and services<br><input checked="" type="checkbox"/> Based on part of the goods and services, namely:   |   |
| <b>Class</b>   | <b>Goods and services</b>   |
| 32 (EN)  | Flavoured mineral and aerated waters, non-alcoholic drinks; fruit drinks, fruit juices and fruit nectars; bases and essences (included in Class 32) for making the aforesaid beverages. |
| <b>Entitlement</b> <input checked="" type="checkbox"/> Owner/Co-owner <input type="checkbox"/> Authorised licensee<br><input type="checkbox"/> Person authorised under the applicable law  |   |
| <b>Fees</b>  |   |
| Payment method   | Current account   |
| Opposition of EUTM fee   | 320.00 €  |
| Total amount   | 320.00 €  |
| Current account with EUIPO   |   |
| <b>Signature</b>   |   |
| <b>First name and Surname</b>  | <b>Capacity of the signatory</b>  |
| Marina Schlumberger  | Legal practitioner  |

**Annexes:**

|                                 |
|---------------------------------|
| <b>Selected ground number 1</b> |
| No attachments                  |
| <b>Selected ground number 2</b> |
| No attachments                  |

## NOTICE OF OPPOSITION

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|--|
| <b>Arguments</b>                       |
| No attachments                         |
| <b>Annexes to Arguments (Evidence)</b> |
| No attachments                         |