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1211 Geneva 20, Switzerland  
World Intellectual Property Organization(WIPO)  
International Bureau

**NOTIFICATION OF EX OFFICIO PROVISIONAL REFUSAL**  
TO THE INTERNATIONAL BUREAU OF WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)  
UNDER RULE 17(1) AND (2) OF THE COMMON REGULATIONS

**1. Office Making the Notification:**

Korean Intellectual Property Office (KIPO)  
920 Dunsan-dong, Seo-gu, Daejeon, 302-701, Republic of Korea

**2. International Registration Number (Date of Registration/Subsequent Designation):**

827554 (03/05/2004)

**3. Name and Address of the Holder:**

Rauch Fruchtsäfte GmbH  
Langgasse 1 A-6830 Rankweil Austria

**4. Goods and/or Services Affected by this Provisional Refusal:**

All the designated goods/service

※ Please note that there is no provision in the Korean Trademark Act allowing the examiner to delete Ex Officio the designated goods/services refused by the ground(s) for Provisional Refusal the and to grant protection for the remaining goods/services.

**5. Grounds for the Decision:**

- ☐ Lack of distinctiveness
- ☒ Conflict with another person's earlier application(s) and/or registration(s)
- ☒ Vagueness and/or broadness of the designated goods/services
- ☐ Other grounds

※ Please refer to item 9 for the details

**6. Provisions of the Korean Trademark Act applicable to the Grounds:**

Article 7(1)(vii), 10(1), 23(1)( i )

**7. Date on which the Provisional Refusal was pronounced(Time Limit):**

2005.02.21(2005.04.21)

**8. Guidance as to Future Procedure:**

Where the holder receives this notification, the protection of the international registration is to be refused as a whole unless the holder submits to the KIPO, through a representative whose address is in the Republic of Korea, a written opinion (amendment) within two months from the date on which this provisional refusal was pronounced.

※ Please note that the extension of the Time Limit set in item 7 is not allowed

**9. Details of the Provisional Refusal:**

(Ground1)

The proposed mark is not registrable in connection with "All the goods", because the mark is

identical with or similar to, in sound and commercial impression, other person's marks which were registered in the Republic of Korea prior to *Registration date* of the proposed mark. Korean Trademark Act, Article 7(1)(vii), 23(1)(i).

☐ Information concerning the earlier marks

(Mark1)

- Filing number : 4019910004407, 5020020010851, 5620020011837
- Filing date : 19/02/1991, 14/09/2002, 14/09/2002
- Korean registration number : 400249615
- Korean registration date : 16/09/1992(dd/mm/yyyy)
- Name and address of the owner : HAITAI BEVERAGE CO., LTD.

917-1, Mok-dong, Yangchun-gu, Seoul, Republic of Korea

(서울특별시 양천구 목동 917-1)

- Goods/services concerned : 커피, 코코아, 밀크커피, 밀크코코아, 녹차, 보리차, 오가피차, 구기자차, 맥엽차, 얼음.

- Reproduction of the mark: HAPPYDAY

(Mark2)

- Filing number : 4019910004412, 5020020008868, 5620020009623
- Filing date : 19/02/1991, 24/07/2002, 24/07/2002
- Korean registration number : 400245274
- Korean registration date : 30/07/1992(dd/mm/yyyy)
- Name and address of the owner : HAITAI BEVERAGE CO., LTD.

917-1, Mok-dong, Yangchun-gu, Seoul, Republic of Korea

(서울특별시 양천구 목동 917-1)

- Goods/services concerned : 소고기, 계란, 햄, 우유, 발효유, 유산균음료, 유산음료, 식용참기름, 식용우지, 마가린.

- Reproduction of the mark: HAPPYDAY

(Mark3)

- Filing number : 4019910004404, 5020020004789, 5620020004906
- Filing date : 19/02/1991, 08/04/2002, 08/04/2002
- Korean registration number : 400235405
- Korean registration date : 08/04/1992(dd/mm/yyyy)
- Name and address of the owner : HAITAI BEVERAGE CO., LTD.

917-1, Mok-dong, Yangchun-gu, Seoul, Republic of Korea

(서울특별시 양천구 목동 917-1)

- Goods/services concerned : 보리, 인삼, 사탕수수, 과일병조림, 두유, 효모, 엿기름, 배합사료, 농산물중자, 오렌지, 묘목

- Reproduction of the mark:

HAPPYDAY  
기쁜날

(Mark4)

- Filing number : 4019970037036
- Filing date : 08/08/1997
- Korean registration number : 400411997

- Korean registration date : 23/07/1998(dd/mm/yyyy)
- Name and address of the owner : Aekyung Industry Co.,.(애경산업 주식회사)  
83, Guro-dong, Guro-gu, Seoul, Republic of Korea  
(서울특별시 구로구 구로동 83번지)
- Goods/services concerned : 무기산류, 탄화수소, 흡착제, 탈취제, 표백제, 풀, 인공감미료, 방취제, 소취제, 사향.

- Reproduction of the mark: **HAPPYDAY**  
(Mark5)

- Filing number : 4019950003988
- Filing date : 09/02/1995
- Korean registration number : 400339537
- Korean registration date : 15/05/1996(dd/mm/yyyy)
- Name and address of the owner : Lotte Jaegwa Co.,.(롯데제과주식회사)  
23, 4Ga, Yangpyung-dong, Youngdeungpo-gu, Seoul, Republic of Korea  
(서울특별시영등포구양평동4가23)
- Goods/services concerned : 추잉껌, 캔디, 비스킷, 초코렛, 아이스크림, 아이스캔디, 카라멜, 식빵, 설탕, 떡.

**오 해피데이**

- Reproduction of the mark: **OH HAPPYDAY**

(Ground2)

The assigned examiner refuses registration because the identification of the goods below among the designated goods is too broad a description. Korean Trademark Act, Article 10(1), 23(1)(i). However, the proposed mark could be registered if the applicant further specifies or deletes the identification concerned unless there is any other ground for refusal.

Therefore, the applicant is recommended to delete or amend the identification by using the common commercial names for the goods and/or describing the use and purpose of the goods definitely.

**<The designated goods refused by this ground>**

.Class05 : Food for babies.

.Class29 : Preserved, dried and cooked fruits and vegetables; jellies; milk products; edible oils and fats.

.Class30 : tea.

\* Please note that, while an application may be amended to clarify or limit the identification, addition to the identification is not permitted. Korean Trademark Act 16(1). Therefore, the applicant may not amend to include any goods that are not within the scope of goods set forth in the present identification.

Upon amendment, the examiner may issue another notification should other grounds arise.

10. Official Seal or Signature by the Office:

KIPO Examiner KIM, Young Lai



※ If the holder has any questions or needs assistance in responding to this notification,  
please contact the examiner.  
e-mail: kipomadri@kipo.go.kr, telephone: (82) (42) 481 5313 or Fax: (82) (42) 472 3507