

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

**REFUSAL OF PROTECTION**

notified to the International Bureau of the World Intellectual Property Organization (WIPO)  
according to Article 5 of the Madrid Protocol

**I. Office notifying the refusal:** National Intellectual Property Center of Georgia  
"SAKPATENTI"  
6, I. Chavchavadze I Lane, 0179 Tbilisi, Georgia  
Telephone: (0099532) 25-27-95  
Fax: (0099532) 988419, (0099532) 988426  
Email: saqpatenti @ global - erty.net

**II. Number of the international registration which is the subject of the refusal:** 822 075

**III. Grounds for refusal:** The provisional refusal is based on an opposition. The protection cannot be granted in Georgia because an opposition has been filed in 2005 04 15 at the Chamber of Appeals within three months period following the publication of the trademark data in the bulletin (2005 02 25) by Krewel Meuselbach GmbH, because the trademark is similar and liable to be confused with the national trademark "VALOCORDIN" registered 1958 07 10 under the number 211157 for the goods in class 5.

The name and the address of the holder is:

Krewel Meuselbach GmbH  
Krewelstraße 2, D-53783 Eitorf  
Germany

**IV. Provisions of the Georgian Statute on Trademarks applicable on the subject (see text under IX):**  
Article 5(c), 16(4).

**V. ☒ Refusal for all the goods and services.**

☐ Refusal for the following goods and services:

**VI. The holder of the registration may request a review of the refusal. The request shall be received by the Chamber of Appeal of "SAKPATENTI" no late than 2 months from the date of the refusal. The time limit expires: 2005 07 15; but this time may be prolonged because of the various circumstances connected with the legal investigation. The request must be filed through the intermediary of a patent agent of Georgia.**

**VII. Date on which the refusal was pronounced:** 2005 04 15

**VIII. Signature or official seal of the Office notifying the refusal:**



N. Tchavtchanidze  
Head of the Department

## **IX. Extract from the Georgian Statute on Trademarks**

### **ARTICLE 3. TRADEMARK**

1. A trademark is a sign or a combination of signs, which can be represented graphically and is capable of distinguishing the goods and/or services (hereinafter goods) of one undertaking from those of other undertakings.

2. The sign can be a word or words, as well as personal names; letters; figures; sounds; designs; three-dimensional figures; including the shape of goods or their wrapping as well as other packaging, including colors or combination of colors.

3. The trademark is protected by its registration with Sakpatenti or on basis of international agreement.

4. The well-known trademarks in Georgia are protected without registration under Article 6bis of the Paris Convention.

### **ARTICLE 4. ABSOLUTE GROUNDS FOR REFUSAL ON REGISTRATION**

1. As a trademark shall not be registered a sign, or combination of signs which:

a) does not comply with the provisions of Article 3 paragraph 2 of this Law;

b) are devoid of any distinctive character with respect to the relevant goods:

b.a.) consists exclusively of kind, quality, quantity, characteristics, value, intended purpose, geographical origin, place of sale, time or other characteristics of the goods or are regarded as such;

b.b.) is widely used as a generic term for certain type of goods;

b.c.) represents a widely established term in trade, or sign for which the registration is required;

c) irritates or is contrary to the national dignity, religion feelings and traditions, norms of morality;

d) is likely to deceive the public as to the nature, quality, the geographical origin or other features of the goods;

e) coincides fully or by any constituent element with an armorial bearing, flag, emblem of a foreign state, its full name or abbreviation; international or intergovernmental organization emblem, its full name or abbreviation; official control, warranty, testable hallmarks, sign (among them certification sign of goods accordance), seal, order and medal; existing or historical name of the territorial unit of Georgia, its armorial bearing, flag, emblem, banknotes or their imitation. Such signs shall be included in a trademark as an unprotected part, if there is a permission of Ministry of Culture or a holder.

2. As a trademark shall not be registered such a three-dimensional sign, the shape of which:

a) is conditioned only by the nature of the goods;

b) is necessary to obtain a technical result.

3. The subparagraph "b" of paragraph 1 of this Article shall not apply if before taking a decision on registration of the trademark, this mark has become distinctive in relation to the goods indicated in the application in consequence of the use in the course of trade.

### **ARTICLE 5. RELATIVE GROUNDS FOR REFUSAL ON REGISTRATION**

A trademark shall not be registered if, it:

a) is identical with the trademark registered in regard to the same goods;

b) is identical with the trademark of third party and the goods are similar to such an extent that, creates the possibility of confusion of the marks, including confusion based on association;

c) is similar to the trademark of third party and the goods are identical or similar to such an extent, that there exists the likelihood of confusion of the marks, which includes confusion based on association;

d) is identical with or similar to the well-known trademark in Georgia, that there exists the likelihood of confusion with it, which includes confusion based on association. This rule applies even in the case when the list of the goods are different;

e) is identical with or similar to the appellation of origin or geographical indication protected in Georgia that causes the likelihood of confusion with it, which includes confusion based on association;

f) is identical with the industrial design protected in Georgia except the cases when the registration of the trademark is sought by the holder of the exclusive right on the industrial design;

g) is identical with or similar to the third party's registered trademark enjoying good reputation in Georgia, and the use of this trademark creates the unfair advantages for its applicant, or damages the reputation of the protected trademark. This rule is applied in the case where the lists of goods are different;

h) contains names, pseudonyms, facsimiles, portraits of famous in Georgia persons without the consent of these persons or their legatees, and if they are the property of the history and culture of Georgia without the permission of the Ministry of Culture of Georgia;

i) contains the names of the historical monuments of Georgia or their reproduction without the permission of the Ministry of Culture;

j) contains the firm name causing the likelihood of confusion.

## **ARTICLE 16. OPPOSITION TO THE EXAMINATION DECISION AT THE CHAMBER OF APPEALS**

1. The decision of the examination as to form on rejection of the application shall be opposed by the applicant at the Chamber of Appeals within 3 months after taking the decision.

2. The decision of the substantive examination on refusing the trademark registration respecting the full list of the goods or its part can be opposed by the applicant at the Chamber of Appeals within 3 months after taking the decision.

3. The decision of the substantive examination on registration of the trademark can be revised in respect to the Article 11 of this Law relating the filing with Sakpatenti of the application having earlier priority.

4. Within three months period following the date of publication of the trademark data in the Bulletin, any party concerned has right to bring an action to the Chamber of Appeals against the decision of the examination.

5. The Chamber of Appeals shall consider the appeal within two months from the date of its filing.

6. The decision of the Chamber of Appeals can be appealed against at the court.

Notification

2R 211 157

*Subsequent designations under the Madrid Agreement:* Azerbaijan, Kyrgyzstan.

*Subsequent designations under the Madrid Protocol:* Georgia, Turkmenistan.

*Date of subsequent designation:* 16.05.2000.

*Date of notification:* 24.08.2000

International registration concerned

July 10, 1998

2R 211 157

Krewel Meuselbach GmbH  
Krewelstraße 2,  
D-53783 Eitorf  
(Germany).

*Name and address of the representative:* Rechtsanwälte Meyer-Götz, Diem & Partner, 64, Louisenstrasse, D-01099 DRESDEN (Germany).

**Valocordin**

*List of goods and services:*

- 1 Food preserving products.
- 5 Medicines, chemical products for medical and sanitary use, pharmaceutical drugs and preparations, plasters, surgical dressings, pesticides and herbicides, disinfectants.

*Basic registration:* Germany, 05.04.1934, 464 795; 02.02.1954, 4758.

*Language of the international application:* French

