

MADRID AGREEMENT
CONCERNING THE INTERNATIONAL REGISTRATIONS OF MARKS AND
THE PROTOCOL RELATING TO THE MADRID AGREEMENT
FINAL DECISION FOLLOWING A REFUSAL

notified to the International Bureau of the World Property Organization (WPO)
in accordance with Article 5 of the Madrid Agreement and the Protocol Relating to the Madrid Agreement

1. Office notifying the final decision:

Intellectual Property Agency, Government House 3, Central Avenue, Yerevan, 375010, Republic of Armenia

2. Number of the international registration, which is the subject of the final decision: 806901

3. Name and address of the holder of the international registration, which is the subject of the final decision:

Open Joint Stock Company "Wimm-Bill-Dann Foods", Bld. 16/15, Off. 306, Yauzsky boulevard Moscow (RU)

4. The grounds on which the provisional refusal is based (See text overleaf):

12.1.a

5.

☒ Final decision confirming the provisional refusal of the protection.

☐ Final decision totally reversing the provisional refusal of the protection.

☐ Final decision partially reversing the provisional refusal of the protection:

Refused for the following goods and/or services:

☐ Accepted for the following goods and/or services:

☐ Refusal for the non-protected elements of the mark:

6. Date on which the final decision pronounced: 06.05.2005

7. Signature or official seal of the office notifying the final decision.



Refuse of the Protection of the mark

Article 11. Exclusive grounds for refusal of trademark registration.

1. A trademark cannot be registered if it consists solely of signs that:

- a) Are devoid of distinctive features;
- b) Reproduce state Emblems, flags and national symbols, official names of States, full or abbreviated names of international organizations, official emblems and hallmarks denoting control and guarantee, seals, rewards and other signs or confusingly similar marks. Such signs may be included in the trademark as a non-protectable element by the consent of the owner or competent body;
- c) Entered into general use as sign characterizing a definite type of products,
- d) Are well-known symbols and terms;
- e) Indicate the kind, quality, quantity, properties and value of goods, the object set forth for the creation of goods, as well as the area and period of their production and marketing;
- f) Specify exclusively the outward appearance of a product, which:
 - Derives essentially from the nature of the product;
 - Is necessary to realize some technical effect;
 - Conveys a substantial value to the product.

2. The signs specified in the sub-paragraphs "a" to "f" of the paragraph 1 of this article may be included in the trademark as non-protectable elements, if they do not constitute an essential part of the mark,

3. As trademark cannot be registered also signs imparting or containing:

- a) Information that leads or is susceptible to lead the consumer in confusion with regard to the product or the manufacturer,
- b) A geographical indication and are filed for goods that are not originated from the area bearing this indication, if the use of the said indication is susceptible to lead the consumer in confusion as for the real origin of the product;
- c) A geographical indication ascertaining wines, for wines not originated from the area bearing the geographical indication specified or a geographical indication ascertaining spirits, for spirits not originated from the area bearing the geographical indication specified, even if the real origin of the product is indicated or the geographical indication is used in a translated version or in conjunction with such expressions as "sort", "type", "style", "imitation" and others.

4. As trademark cannot be registered as well signs that are contrary to public interest, principles of humanity and morality or to regulations for preventing unfair competition (usages of business circulation).

5. The provisions of this article, paragraph 1, sub-paragraph "f", as for the production area of products (geographical indication), do not apply to collective marks registered according to article 21 of the present Law.

Article 12. Other grounds for refusal of trademark registration.

1. Cannot be registered as trademark signs that are identical or similar to a degree of leading in confusion:

- a) To trademarks for identical or similar products previously filed or registered in the Republic of Armenia and enjoying an earlier priority;
- b) To marks for identical or similar products belonging to third persons and protected without registration in conformity with international treaties to which the Republic of Armenia is a party;
- c) To well-known marks for identical or similar products in the Republic of Armenia, which are determined by the competent State Body;
- d) To the appellation of origin of a product protected by the Law of the Republic of Armenia, with the exception of cases when this appellation is included as non protected element in a trademark registered on behalf of a person having the right to use said appellation;
- e) To certification marks registered in a prescribed procedure.

2. Cannot be registered as trademark signs reproducing:

- a) Trade names, totally or partially, which are known in the Republic of Armenia or belong to third persons when the right to use that trade name was acquired prior to filing of the trademark;
- b) Industrial designs of an earlier priority, the right for the use of which belongs to other persons;
- c) Titles of works of science, literature, or art well known in the Republic of Armenia or citations from them, works of art or parts of them without the consent or authorization of the authors or of their heirs;
- d) Names, surnames, pseudonyms and their derivatives, portraits or facsimile of known personalities, without an authorization duly delivered by these personalities, their heir or the Government of the Republic of Armenia.

3. For the recognition of a trademark well-known in the Republic of Armenia, to which reference is made in the present article, paragraph 1, sub-paragraph "c", should be taken into consideration the faithful use of this trademark in one of the countries member of the Convention of Paris or its well-known character acquired in concerned groups of society in the Republic of Armenia as a result of advertising activities.

4. The provisions of this article, paragraph 1, sub-paragraphs "a" to "c", apply also to trademarks that have been filed for non identical products, if these trademarks may mislead the consumer and give reason to suppose a relation between these products and the owner of a trademark registered or protected without registration or considered as well-known in the Republic of Armenia, taking into consideration therewith the prejudicial effects that this fact may cause to the interests of the owner of the said trademark.

5. The provisions of the paragraph 1 of this article do not applied to identical geographical appellations for ascertainment of wines, if these are used in conjunction with complementary distinctive elements, provided the provisions set forth in the article 11, paragraph 3, sub-paragraph "b", of this Law are respected.