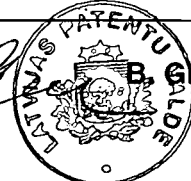


**MADRID AGREEMENT CONCERNING
THE INTERNATIONAL REGISTRATION OF MARKS
AND PROTOCOL RELATING TO THAT AGREEMENT**

PROVISIONAL REFUSAL OF PROTECTION

notified to the World Intellectual Property Organisation (WIPO)
according to article 5 of the Madrid Agreement and Madrid Protocol

<p>I. Office making the notification of refusal PATENT OFFICE OF THE REPUBLIC OF LATVIA 7, Citadeles iela, PO Box 824 LV 1010, Rīga LATVIA</p>	<p>phone 371 7027604 Fax 371 7027690</p>
<p>II. Number of the international registration concerning object of refusal 825043</p>	
<p>III. Name of holder of the international registration concerning object of refusal Foshan Haitian Flavouring & Food Co., Ltd No.16, Wen Sha Road Foshan City, Guangdong Province China</p>	
<p>IV. Motives of refusal Opposition of Rauch Fruchtssäfte GmbH [Langstrasse 1, A-6830 Rankweil, AT] , holder of international registration 827554 / HAPPY DAY/</p>	
<p>V. Reference to the corresponding essential provisions of the law (see materials attached) ARTICLE. 18., 39. Opposition has based on Article 7(1)2</p>	
<p>VI. <input checked="checked" type="checkbox"/> Refusal for all the goods and services <input type="checkbox"/> Refusal for the following goods and services:</p>	
<p>VII. Possibilities to review or appeal VII. Possibilities to review or appeal The holder of the mark has the right, within 3 month from the date of receipt of present decision and upon payment of a fee, to submit a substantiated appeal to the Patent Office through a professional local patent attorney. After expiration of the said period the Board of Appeal shall take a decision to satisfy the opposition, fully or in part, or to dismiss it. The decision of the Board of Appeal can be appealed, within three months from the date of receipt of the copy of the decision to the Administrative district Court</p>	
<p>VIII. Date on which the refusal was pronounced 05. 07. 2005</p>	
<p>IX. Signature and seal of the office making the notification of refusal</p>	


 **B. Graube**

Extracts of the Law of the Republic of Latvia On Trademarks and Indications of Geographical Origin.

Article 18. Opposition to the Registration of Trademarks

(1) Within three months from the date of the publication of a trademark, interested persons may, upon payment of the applicable fee, submit an opposition to the registration of a trademark. The opposition shall be filed with the Board of Appeals in writing, substantiated by appropriate arguments and citations to the provisions of law. After the expiration of the previously mentioned term, the opponent does not have the right to change (expand) the initial legal basis of the opposition, but may, up until the decision of the Board of Appeals is taken, submit additional documents and materials, that confirm (detail) the facts on which the opposition is based.

Article 39. Validity of an International Registration in the Republic of Latvia

(5) Opposition to the entry into effect of an international registration of a trademark in Latvia, as provided for in Section 18 of this Law, shall be filed within four months from the date of publication of an notice of trademark registration with respect to the Republic of Latvia (territorial extension to the Republic of Latvia) in the official gazette of international registration of trademarks.

Article 6. Absolute Grounds for Refusal and Invalidation of a Trademark Registration

(1) The following signs shall not be registered as trademarks (if they have been registered, these registrations may be declared invalid pursuant to the provisions of this Law):

- 1) those which cannot constitute a trademark, that is, which do not comply with the provisions of Article 3 of this Law;
 - 2) those which lack any distinctive character with respect to the applied goods or services;
 - 3) those which consist solely 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 providing the services, or other characteristics of the goods or services;
 - 4) those which consist solely of signs or indications which have become customary in the current language or in fair and established practices of the trade to designate the goods or services applied for (general designations);
 - 5) those which consist solely of a shape which is directly determined by the kind of goods (which results directly from the nature of the goods themselves), or which is necessary to obtain a particular technical result, or which gives substantial value to the goods;
 - 6) those which are contrary to public policy or to socially accepted principles of morality;
 - 7) those which are of such a nature as to mislead the consumers, for example, as to the nature, quality or geographical origin of the goods or services;
 - 8) those which contain signs, the registration of which would be refused or invalidated pursuant to Article 6-ter of the Paris Convention, including coats of arms and flags of the member countries of the Paris Union, their official marks indicating control or warranty, and hallmarks, as well as emblems, flags, names of international organisations and their abbreviations, without authorization by the competent authorities;
 - 9) those which, without authorization by the competent authorities given pursuant to the procedures set out in the statutory enactments of Latvia, contain the official heraldry approved by the State, national decorations, official Service insignia, as well as official marks indicating control, quality and warranty, official hallmarks, and signs indicating the safety of utilising goods which are used with respect to identical or similar goods or services in Latvia, or any other marks of high symbolic value, as well as religious symbols;
 - 10) with respect to wines - those which contain or consist of an indication of geographical origin identifying wines of particular origin, or with respect to spirits which contain or consist of an indication of geographical origin identifying spirits of particular origin, if such is not the genuine place of origin of the wines or spirits for which the trademark registration has been applied for;
 - 11) those which are intended for designation of agricultural products and foodstuffs and which contain an indication of geographical origin protected in relation to the same agricultural products and foodstuffs or which consist of such protected indication of geographical origin, if the products in relation to which the trademark registration has been applied for are not of the relevant origin, or if the use of the sign applied for registration in relation to these products is contrary to the statutory enactments governing the protection of geographical indications and designations of origin for agricultural products and foodstuffs.
- (2) A trademark also shall not be registered or, if registered, may be liable to be declared invalid pursuant to the provisions of this Law if the application for registration of the trademark was clearly made in bad faith by the applicant.
- (3) A trademark registration may not be refused on the basis of the provisions of Paragraph 1, Sub-paragraphs 2, 3 or 4 of this Article, and shall not be declared invalid on the basis of the same provisions if, as a result of the use of the mark, it has acquired a distinctive character in the perception of the relevant consumers in Latvia with respect to the goods and services for which registration has been a

Section 7. Earlier Trademarks as Grounds for Invalidation of a Registration

(1) A trademark registration may be declared invalid pursuant to the provisions of this Law in the following cases:

- 1) if it is identical to an earlier trademark, and the goods or services for which the trademark was registered are identical to the goods or services with respect to which the earlier trademark was registered;
- 2) if because of its identity or similarity to, an earlier trademark belonging to another person and the identity or similarity of the respective goods or services, there exists a likelihood of confusion of the trademarks by consumers, which includes the likelihood of association with the earlier trademark.

Section 8. Well-known Trademarks as Grounds for Refusal or Invalidation of Trademark Registrations

(1) Notwithstanding and in addition to the provisions of Section 7 concerning earlier trademarks, a trademark registration may be rejected or, if registered, the registration may be invalidated under the provisions of this Law, if the trademark is identical or

WORLD INTELLECTUAL
PROPERTY ORGANIZATION



MADRID AGREEMENT AND PROTOCOL

chemin des Colombettes, P.O. Box 18, CH-1211 Geneva 20 (Switzerland)
Tel: +41 (0)22 911 1111 - Facsimile (International Registry of Marks): (41-22) 740 1429
E-mail: intreg.mails@wipo.int - Internet: http://www.wipo.int

CERTIFICATE OF REGISTRATION

The International Bureau of the World Intellectual Property Organization (WIPO) certifies that the indications appearing in the present certificate conform to the recording made in the International Register of Marks maintained under the Madrid Agreement and Protocol.

G. Bisson
Head

Geneva, July 22, 2004

Examination and Registration Section
International Registrations Administration Department

827 554

Registration date: May 3, 2004
Date next payment due: May 3, 2014

Rauch Fruchtsäfte GmbH
Langgasse 1
A-6830 Rankweil
(Austria).

Name and address of the representative: Dr. Michael Konzett
Rechtsanwalt, Föhrenburgstrasse 4, A-6700 Bludenz (Austria).

HAPPY DAY

Indication relating to the nature or kind of mark: standard characters

List of goods and services - NCL(8):

- 5 Dietetic substances adapted for medical use, food for babies.
- 9 Preserved, dried and cooked fruits and vegetables; jellies; jams, milk and milk products; edible oils and fats.
- 30 Coffee, tea, cocoa, artificial coffee; ices; honey; treacle; vinegar, sauces (condiments); fructose.

Basic registration: Austria, 10.02.2004, 215 480.

Data relating to priority under the Paris Convention: Austria, 04.12.2003, AM 8107/2003.

Designations under the Madrid Agreement: Albania, Armenia, Azerbaijan, Belarus, Benelux, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Egypt, France, Germany, Hungary, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Monaco, Morocco, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Ukraine, Uzbekistan.

Designations under the Madrid Protocol: Australia, Denmark, Estonia, Finland, Georgia, Greece, Iceland, Ireland, Lithuania, Norway, Republic of Korea, Sweden, Turkey, Turkmenistan, United Kingdom.

Declaration of intention to use the mark: United Kingdom, Ireland.

Date of notification: 22.07.2004

Language of the international application: English

* As of the 4th February 2003, the name of Serbia and Montenegro is to be used instead of the Federal Republic of Yugoslavia