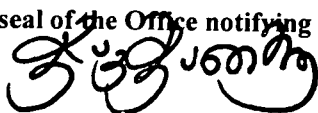


**THE PROTOCOL RELATING TO THE MADRID AGREEMENT
CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS**

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:	<p style="text-align: center;">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</p>
II. Number of the international registration which is the subject of the refusal:	<p style="text-align: right;">823 140</p>
III. Grounds for refusal:	<p>The provisional refusal is based on an opposition. The protection cannot be granted in Georgia because an opposition has been filed in 2005 07 08 at the Chamber of Appeals within three months period following the publication of the trademark data in the bulletin (2005 04 11) by Florena Cosmetic GmbH, because the trademark is similar and liable to be confused with the international trademark "Florena" registered 1999 10 01 under the number 722717 for the goods in class 3.</p> <p>The name and the address of the holder is:</p> <p style="text-align: center;">Florena Cosmetic GmbH Am Eichberg, D-04736 Waldheim Germany</p>
IV. Provisions of the Georgian Statute on Trademarks applicable on the subject (see text under IX):	<p>Article 5(c), 16(4).</p>
V.	<p><input checked="" type="checkbox"/> Refusal for all the goods and services.</p> <p><input type="checkbox"/> Refusal for the following goods and services:</p>
VI.	<p>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 09 08; but this time may be prolonged because of the various circumstances connected with the legal investigation.</p> <p>The request must be filed through the intermediary of a patent agent of Georgia.</p>
VII.	<p>Date on which the refusal was pronounced: 2005 07 08</p>
VIII. Signature or official seal of the Office notifying the refusal:	<div style="text-align: center;"> N. Tchavtchanidze Head of the Department</div>

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;
 - b.d.) irritates or is contrary to the national dignity, religion feelings and traditions, norms of morality;
 - b.e.) is likely to deceive the public as to the nature, quality, the geographical origin or other features of the goods;
 - c) 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.



Notification

October 1, 1999

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Florena Cosmetic GmbH
Am Eichberg,
D-04736 Waldheim
(Germany).

Address for correspondence: Florena Cosmetic GmbH, P.O.
Box, D-04734 Waldheim (Germany).

Name and address of the representative: Dipl.-Ing. (FH) Horst
Sauer Patentanwalt, 15, Louisenstrasse, D-01445 Radebeul
(Germany).

Florena

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

List of goods and services:

- 3 Bleaching preparations and other substances for laundry use, perfumery, cosmetics, hair lotions, essential oils, soaps.

Basic registration: Germany, 28.10.1957, 707 775.

Designations under the Madrid Agreement: Austria, Azerbaijan, Benelux, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, France, Hungary, Italy, Lesotho, Mongolia, Poland, Romania, Russian Federation, Slovakia, Slovenia, Spain, Switzerland, The former Yugoslav Republic of Macedonia, Viet Nam, Yugoslavia.

Designations under the Madrid Protocol: Denmark, Estonia, Finland, Georgia, Lithuania, Norway, Sweden, Turkey, United Kingdom.

Declaration of intention to use the mark: United Kingdom.

Date of notification: 16.12.1999

Language of the international application: English

1999
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