


**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:	832 140
III. Grounds for refusal:	The trademark is similar and liable to be confused with the international trademark "LABELO" registered 1958 07 30 under the number 211773 for the goods in class 5. The name and the address of the holder is: Beiersdorf AG Unnastrasse 48, D-20253 Hamburg Germany
IV. Provisions of the Trademark Law of Georgia applicable on the subject (see text under IX):	Article 5(c).
V.	<input checked="" type="checkbox"/> Refusal for all the goods and services. <input type="checkbox"/> 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 3 months from the date of the refusal. The time limit expires: 2005 10 07 The request must be filed through the intermediary of a patent agent of Georgia.
VII.	Date on which the refusal was pronounced: 2005 07 07
VIII.	Signature or official seal of the Office notifying the refusal: <div style="display: flex; justify-content: space-between; align-items: center;"><div style="text-align: center;"></div><div style="text-align: center;">N. Tchavtchanidze Head of the Department</div></div>

IX. Extract from the Trademark Law of Georgia

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.



Notification

211 773

Subsequent designations under the Madrid Agreement:
Armenia, Azerbaijan, Republic of Moldova, Tajikistan.

Subsequent designations under the Madrid Protocol: Georgia.

Date of subsequent designation: 07.06.2003

Date of notification: 07.08.2003

International registration concerned

211 773

Registration date: July 30, 1958

Date of the renewal: July 30, 1998

Date next payment due: July 30, 2008

Beiersdorf AG
Unnastrasse 48
D-20253 Hamburg
(Germany).

*Legal nature of the holder (legal entity) and place of
organization:* joint-stock company, Germany.

LABELLO

List of goods and services:

- 1 Preserving products.
- 3 Remedies for human medical and veterinary purposes, namely soaps and essential oils; sanitary products and cosmetic products, particularly mouth, skin, hair and tooth care products in the form of tinctures, extracts, powders, pastilles, tablets, pills, soaps, ointments, pastes, essential oils.
- 5 Chemicals for pharmaceutical purposes, remedies for human medical and veterinary purposes, particularly tinctures, extracts, powders, pastilles, tablets, pills, plasters, ointments, pastes; sanitary products, particularly mouth, skin and tooth care products in the form of tinctures, extracts, powders, pastilles, tablets, pills, plasters, ointments, pastes, surgical dressings, plasters, disinfectants.

Basic registration: Germany (without the territory that prior to October 3, 1990, constituted the German Democratic Republic), 24.06.1956, 96 248.

Language of the international application: French

