

MADRID AGREEMENT
CONCERNING THE INTERNATIONAL REGISTRATIONS OF MARKS AND
THE PROTOCOL RELATING TO THE MADRID AGREEMENT
PROVISIONAL REFUSAL OF PROTECTION

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 Provisional Refusal

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 refusal:

839972

(540) Mark SMIRNOV

(821/822) Basic app. or reg. RU, 21.05.2004, 268951

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

Obschestvo s organichennoi otvetstvennostyu "Torgovy dom po vozrozhdeniyu traditsyi Postavschika Dvora Ego Imperatorskago Velichestva P.A. Smirnova", M. Tatarskiy per., 5, str. 1 RU-113184 Moscow (RU)

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

11.1

5.

- ☐ Refusal for all goods and/or services.
☐ Refusal for the following goods and/or services:

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

All the records, except the word "SMIRNOV" (in Russian), are considered to be as non-protected elements.

6.[Time Limit for appeal provided for the national law against the declaration of refusal pronounced by Intellectual Property Agency of the Republic of Armenia]:

In accordance with Article 10 of the Law, within a period of two months following the date of receiving of the decision of refusing the registration of a mark, the applicant may file an application requesting to carry out a re-examination by submitting founded grounds.

In accordance with Article 13 of the Law, in case of disagreement with the decisions of preliminary examination and re-examination, the applicant has the right to file an appeal with the Board of Appeal within the period of three months after receiving the decisions of preliminary or re-examination. The Board of Appeal examines the appeal in conformity with the approved procedure. In case of disagreement with the decisions of the preliminary examination and re-examination or the Board of Appeal, the applicant has the right to apply to a Court.

In accordance with Article 6 of the Law, foreign legal entities and natural persons shall deal with the registration of trademarks through patent attorney registered with the Office. The authority of a patent attorney shall be validated by a power of attorney given by the person in the name of whom the registration of trademark is sought.

7. Date on which the refusal was pronounced 14.12.2005

8. Signature or official seal of the Office notifying the provisional refusal:



Refusal of Protection of the mark

Article 11. Exclusive grounds for refusal of trademark registration.

1. A trademark cannot be registered if it consists of such signs that have not distinctive features and consists of elements that:
 - a) have come into general use as signs characterizing a definite type of goods,
 - b) are well-known symbols and terms;
 - c) indicate the type, kind, quality, quantity, properties and value of goods, purpose of creation of goods, as well as the place and time of production and distribution thereof;
 - f) exclusively represent the outward form of the good, which:
 - derives essentially from the nature of the product;
 - is necessary for achieving any technical effect and characterizes the function of the good;
 - gives a substantial value to the good.

2. The signs specified in the paragraphs "a" to "d" of this paragraph may be included in the trademark as non-protectable elements, if they do not constitute the predominant part of the mark.

The requirements of this paragraph shall not apply to marks which have obtained distinctive features in the result of using.

1.1 A trademark cannot be registered, according to international treaties, if it reproduces 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 distinguishing signs or signs which confusingly resemble with the mentioned ones. Such signs may be included in the trademark as a non-protectable element with the consent of the owner or a relevant authorized body;

2. (Article 11.2 has no effect from 21.12.2004)

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. Signs likewise cannot be registered as trademark if:

- a) they are contrary to public interest, principles of humanity and morality or rules for preventing unfair competition (customs of commerce).
- b) they are incompatible with the national or spiritual values

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 trademarks signs identical or confusingly similar to :

- a) a trademark already registered in the name of another person or filed for registration with an earlier priority in the Republic of Armenia, for identical or similar goods (if the applications are not withdrawn or refused);
- b) trademarks already registered in the name of other persons protected without registration with an earlier priority, according to international treaties, for identical or similar goods;
- c) trademarks of other persons recognized as well-known and protected in the Republic of Armenia for identical or similar goods according to this Law;
- d) an appellation of origin of goods or geographical indication being protected in the Republic of Armenia, with the exception of cases when they are included as non protected element in a trademark registered in the name of persons having the right to use the said appellation;
- e) certification, collective or guarantee marks registered in a prescribed procedure.

f) trade names, protected in the Republic of Armenia, if the right to use the trade name was acquired before the priority date of a trademark filed for registration for similar goods;

A trademark identical or confusingly similar to trade names protected in the Republic of Armenia, can be registered only in consent of the trade name holder (legal entity)

2. Shall not also be registered as trademarks the reproduction of:

- a) (Article 12.2 sub-paragraph "a" is cancelled on 21.12.2004)
- b) Industrial designs with an earlier priority, the right for the use of which in the Republic of Armenia belongs to other persons;

c) Titles of works of science, literature and art, or citations and fragment, heroes from them, well known in the Republic of Armenia, ~~without the consent of the owner of copyright, if these rights have been obtained before the priority date of that trademark;~~

d) Names, surnames, pseudonyms and their derivatives, portraits or facsimile of known personalities, without the authorization of those personalities, their heirs or the authorization given in a prescribed procedure by the Government of the Republic of Armenia.

3. The consent of the trademark owner indicated in sub-paragraphs "a", "b" or "c" of this article may serve as a ground for registration of a trademark confusingly similar to that mark in a procedure prescribed by the authorized body

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 shall not apply to identical geographical appellations for ascertainment of wines, if they are accompanied in conjunction with complementary distinctive elements, provided that the requirements set forth in the article 11, paragraph 3, sub-paragraph "b", of this Law are observed.