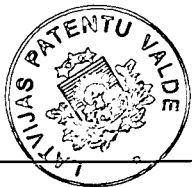


**MADRID AGREEMENT CONCERNING
THE INTERNATIONAL REGISTRATION OF MARKS
AND PROTOCOL RELATING TO THAT AGREEMENT**

PROVISIONAL REFUSAL OF PROTECTION

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

I. Office making the notification of refusal PATENT OFFICE OF THE REPUBLIC OF LATVIA 7, Citadeles iela, PO Box 824 LV 1010, Rīga LATVIA	phone 371 67099604 Fax 371 67099650
II. Number of the international registration which is the subject of refusal 1 001 397	
III. Name of the holder of the international registration concerning the subject of refusal FOODCARE SPÓŁKA Z.O.O. W ZABIERZOWIE , ul. Spokojna 4 PL-32-080 Zabierzów (Poland)	
IV. The grounds of refusal Opposition submitted by FERRERO S.P.A. , (Piazzale Pietro Ferrero 1, I-12051 Alba, Cuneo, IT), holder of national registrations M 17 207 / NUTELLA, Fig. / and M 18 235 / NUTELLA /	
V. Reference to the corresponding essential provisions of the law (see materials attached) ARTICLE. 18, 39. Opposition has based on Article 7(1)2) and Article 8.	
VI. ☐ Refusal for all the goods and services ☒ Refusal for the following goods and services: class 30	
VII. Possibilities to review or appeal The holder has the right, within three months from the date of receipt of decision, 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	
VIII. Date on which the refusal was pronounced 16.10.2009	
IX. Signature and seal of the office making the notification of refusal L.Rinka  	



**LATVIJAS REPUBLIKAS
PATENTU VALDE**

**Valsts preču zīmju reģistrs
IZRAKSTS NO REĢISTRA, 28.04.2003**

Reģistrācijas atjaunošana

Reģistrācija atjaunota uz jaunu 10 gadu periodu saskaņā ar 1999. gada 10. jūnija Latvijas Republikas likuma "Par preču zīmēm un ģeogrāfiskās izcelsmes norādēm" 21. panta otrās daļas noteikumiem

- (111) Reģ. nr. M 18 235
- (151) Reģ. dat. 20.10.1994
- (156) Atjaunoš. dat. 30.06.2003
- (210) Pieteik. M-93-6976
- (220) Pieteik. dat. 30.06.1993
- (399) Pārreģ. dok.
SU 40729 20.02.1970
- (732) Īpašnieks FERRERO S.P.A., Piazzale Pietro Ferrero 1, I-12051 Alba, Cuneo, IT
- (740) Pārstāvis Vladimirs ANOHINS, Aģentūra "TRIA ROBIT", Vīlandes iela 5, a/k 22, Rīga LV-1010, LV
- (540) NUTELLA
- (511)

30 kafija, kafijas maisījumi ar cigoriņiem, kafijas esences un ekstrakti, cigoriņi un cigoriņu maisījumi, tēja, kakao, cukurs, rīsi, tapioka; milti un labības produkti, maize, sausiņi, cepumi, kūkas, nemedicīniski konditorejas izstrādājumi no miltiem un cukura, krējuma saldējums un izstrādājumi no tā, saldējumi uz ūdens bāzes; medus, melases sirups; sāls, raugs, cepamais pulveris; sinepes, pipari, etiķis, garšvielu mērces; garšvielas; pārtikas ledus; kakao masa dzērienu pagatavošanai, šokolādes pastas un glazūras, šokolādes konfektes ar pildījumu, šokolādes izstrādājumi Ziemassvētku eglīšu rotāšanai un šokolādes figūriņas.



(19)



LATVIJAS REPUBLIKAS
PATENTU VALDE

(11) **M 18 235**

(51) **Kl. 30**

Latvijas preču zīmes reģistrācijas apliecība
1993. gada 9. marta Latvijas Republikas likums

(12) **ĪSZIŅAS**

(11) Reģ.Nr. M 18 235 (15) Reģ.dat. 20.10.1994
(18) Preču zīmes darbības teritorijā 30.06.2003
(21) Pieteik. M-93-6976 (22) Pieteik.dat. 30.06.1993

NUTELLA

(39) Pārreģ. dok. SU 40729, 20.02.1970
(73) Īpašn. FERRERO S.P.A.; Piazzale Pietro Ferrero 1, I-12051
Alba, Cuneo, IT
(74) Pārstāvis Vladimirs ANOHINS, Aģentūra 'TRIA ROBIT';
Aizkraukles iela 23-207, Rīga LV-1006

(51) (57)

30 kafija, kafijas maisījumi ar cigoriņiem, kafijas esences
un ekstrakti, cigoriņi un cigoriņu maisījumi, tēja, kakao,
cukurs, rīsi, tapioka; milti un labības produkti, maize,
sausīņi, cepumi, kūkas, nemedicīniski konditorejas
izstrādājumi no miltiem un cukura, krējuma saldējums
un izstrādājumi no tā, saldējumi uz ūdens bāzes;
medus, melases sirups; sāls, raugs, cepamais
pulveris; sinepes, pipari, etiķis, garšvielu mērces;
garšvielas; pārtikas ledus; kakao masa dzērienu
pagatavošanai, šokolādes pastas un glazūras,
šokolādes konfektes ar pildījumu, šokolādes
izstrādājumi Zīmassvētku eglīšu rotāšanai un
šokolādes figūriņas

(45) Publ. dat. 20.03.1995



**LATVIJAS REPUBLIKAS
PATENTU VALDE**

Valsts preču zīmju reģistrs
IZRAKSTS NO REĢISTRA, 21.03.2003

Reģistrācijas atjaunošana

Reģistrācija atjaunota uz jaunu 10 gadu periodu saskaņā ar 1999. gada 13. jūnija Latvijas Republikas likuma "Par preču zīmēm un ģeogrāfiskās izcelsmes norādēm" 21. panta otrās daļas noteikumiem

- (111) Reģ. nr. M 17 207
(151) Reģ. dat. 12.09.1994
(156) Atjaunoš. dat. 23.03.2003
(210) Pieteik. M-93-2885
(220) Pieteik. dat. 23.03.1993
(531) CFE ind. 5.5.21; 5.7.6; 8.1.6; 11.1.5; 11.3.2; 27.5.1; 29.1.15
(591) Krāsu sal. melns, balts, sarkans, zaļš, brūns, dzeltens, gaiši zils
(399) Pārreģ. dok.
WO 513113 16.07.1987
(732) Īpašnieks FERRERO S.P.A., Piazzale Pietro Ferrero 1, I-12051 Alba, Cuneo, IT
(740) Pārstāvis Vladimirs ANOHINS, Aģentūra 'TRIA ROBIT', Vīlandes iela 5, a/k 22, Rīga LV-1010, LV
(540) nutella /fig/
(511)

- 29 gaļa, zivis, mājp�utni, medijumi; gaļas ekstrakti; konservēti, žāvēti (kaltēti) un termiski apstrādāti augļi un dārzeņi; želejas, ievārījumi; gaļas, zivju un augļu konservi; olas, piens, sviests, krējums, no piena ražoti sierī; pārtikas eļļas un tauki; marinējumi
30 kafija, tēja, cukurs, rīsi, tapioka, sāgo, kafijas aizvietotāji; milti un graudaugu produkti, maize, biskvīti, kūkas, cepumi un citi konditorejas izstrādājumi, saldējums; medus, melases sirups; raugs, cepamais pulveris; sāls, sinepes, pipari, etiķis, mērces; garšvielas; pārtikas ledus; kakao, kakao izstrādājumi, tai skaitā kakao pasta dzērienu pagatavošanai, šokolādes pasta, glazūras, konfektes, šokolāde un šokolādes figūriņas eglīšu rotājumam, šokolādes izstrādājumi ar alkoholisku pildījumu; košļājamā gumija, cukuru nesaturošas konfektes un košļājamā gumija

nutella



Article 18. Opposition to a Trademark Registration

(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 Appeal in writing, substantiated by appropriate arguments and references to the provisions of law. After the expiration of the said 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 Appeal is adopted, submit additional documents and materials, that confirm (specify) the facts on which the opposition is based.

Article 39. Validity of an International Registration in Latvia

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

Article 7. An Earlier Trademark 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 because of the identity or similarity of the respective goods or services, there exists a likelihood of confusion of the trademarks or a likelihood of association between the trademarks on behalf of the relevant consumers.

(2) "Earlier trademarks" within the meaning of Paragraph 1 of this Article means:

- 1) trademarks valid in Latvia, which have been registered under national or international registration procedures, with a date of application for registration which is earlier than the date of application for registration of the opposed trademark, also taking into account the priorities accorded to those trademarks;
- 2) applications for the registration of trademarks referred to in the previous Sub-paragraph, provided that they are registered.

Article 8. A Well-Known Trademark as Grounds for Refusal or Invalidation of a Registration

(1) Notwithstanding the provisions of Article 7, a trademark registration may be refused or, if registered, the registration may be invalidated under the provisions of this Law, if the trademark constitutes a reproduction, an imitation, a translation or a transliteration, liable to create confusion, of another trademark, which, even though unregistered, was well-known in Latvia with respect to identical or similar goods or services, on the filing date of the applied for (opposed) registration of trademark (or the date of priority if priority has been accorded).

(2) In addition to the provisions of Paragraph 1 of this Article, a trademark registration may also be refused or invalidated if the goods or services, in relation to which the trademark registration is applied for, are not similar to those of a trademark that is well-known in Latvia, provided that consumers may perceive the use of the applied (opposed) trademark in relation to these goods or services as indicating a connection between these goods or services and the owner of the well-known trademark, and provided that such use may be detrimental to the interests of the owner of the well-known trademark.

(3) In determining whether a trademark is well-known, account shall be taken of the knowledge of this trademark in the relevant group of consumers, including such knowledge in Latvia that has been obtained as a result of the advertising activities or any other circumstances that have contributed to its publicity.

(4) In determining whether the provisions of Paragraphs 1 and 2 of this Article shall apply with respect to a sign that has been applied for registration or with respect to a registered trademark, account shall be taken of the provisions of Article 6-bis of the Paris Convention on well-known marks, including the provision on the inadmissibility of a reproduction or imitation of the well-known mark in an essential part of another trademark; the said provisions shall also apply, *mutatis mutandis*, to service marks.

(5) The provisions of Paragraphs 1 and 2 of this Article with respect to refusal of registration shall not apply during the examination procedure if the application for trademark registration has been filed with the consent of the owner of the well-known trademark.