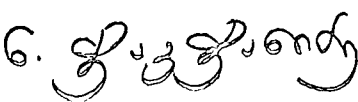


**THE PROTOCOL RELATING TO THE MADRID AGREEMENT
CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS**

REFUSAL OF PROTECTION

notified to International Bureau of the World Intellectual Property Organization (WIPO)
according to Article 5 of the Madrid Protocol

I. Office sending the refusal:	National Intellectual Property Center of Georgia "SAKPATENTI" 6 I. Chavchavadze I Lane, 0179 Tbilisi, Georgia Telephone: (0099325) 25-27-95 Fax: (0099532) 988419, (0099532) 988426 Email: saqpatenti@global-erty.net
II. Number of International registration which is subject of the refusal: 988201	
III. Grounds for refusal: The trademark is similar and liable to be confused with the national trademark "ტუსინი Туссин Tussin" registered 2006-02-15 (application date 2005-02-09) under the number 16493 for the goods in class 5. The name and the address of the holder is: Sagmel Inc. 1580 South Milwaukee Avenue, Suite 415 , Libertyville, IL 60048, USA	
IV. Provisions of the Trademark Law of Georgia applicable on the subject (see text under IX): Article 5 (c).	
V. ☒ Refusal for all the goods and services. ☐ 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: 2010-01-19 The request must be filled through the intermediate of a patent agent of Georgia.	
V. Date on which the refusal was pronounced: 2009-10-19	
VI. Signature or official seal of the Office notifying the refusal: Head of the Department  N. Tchavtchanidze	

ARTICLE 3. THE TRADEMARK

(1) A trademark is a sign or combination of signs that can be represented graphically and is capable of distinguishing the goods or services or both (hereinafter referred to as "goods") of one undertaking from those of other undertakings.

(2) The sign may be a word or words, including proper names, letters, figures, sounds, a design or a three-dimensional figure, including the shape of goods or their wrapping and also other packaging, including colors or combination of colors.

(3) The trademark is protected by registration with Sakpatenti or by virtue of international treaties.

(4) Well-known trademarks in Georgia are protected without registration in Georgia under Article 6*bis* of the Paris Convention. The Chamber of Appeals of Sakpatenti or a court shall in the scope of its competence recognize the trademark as well-known on the basis of the request made by the interested person.

ARTICLE 4. ABSOLUTE GROUNDS FOR REFUSAL OF REGISTRATION

(1) A sign or combination of signs shall not be registered as a trademark where it:

(a) does not comply with the provisions of Article 3 (1) of this Law;

(b) represents one non-stylized (standard) letter or numeral or only one color taken separately;

(c) is not capable of distinguishing the goods concerned;

(d) is descriptive with respect to the goods for which registration is requested, consists exclusively of kind, quality, quantity, characteristics, value, intended purpose, geographical origin, place of sale, time or other characteristics of the goods or can be regarded as such;

(e) is widely used as a generic term for the particular type of goods;

(f) represents a widely established trade term or sign for which registration is sought;

(g) irritates or is contrary to national dignity, religious sentiment and traditions and moral standards;

(h) is likely to deceive the public (as to the features, quality, the geographical origin or other characteristics of the goods);

(i) completely or in its constituent elements corresponds to the state emblems or the flags, emblem or full or abbreviated names of foreign States; the emblems of intergovernmental or other international organizations or their abbreviated or full names; official control, warranty and test hallmarks, seals, awards; the official or historical names, emblems and state flags of Georgia or of its constituent parts, the banknotes or the imitation of the signs provided for by this subparagraph. Such signs may be included in a trademark, as a feature not qualifying for protection, if the permission of the Ministry of Culture, Protection of Monuments and Sport or the consent of the holder for its use has been obtained.

(2) A three-dimensional sign shall not be registered where its shape:

(a) is established exclusively by the nature of the goods;

(b) is necessary for a technical result to be achieved.

(3) The provisions of paragraph 1(c), (d), (e), (f) and (h) above shall not apply if, before a decision is taken on its registration, a trademark has become distinctive through use in the course of trade in relation to the goods specified in the application.

ARTICLE 5. RELATIVE GROUNDS FOR REFUSAL OF REGISTRATION

A trademark shall not be registered if it:

(a) is identical to the trademark having earlier priority and registered for the same goods;

(b) is identical to the trademark, registered in the name of a third party, having earlier priority, and the goods are so similar as to create a risk of confusion between the marks, including confusion based on association;

(c) is similar to the trademark, registered in the name of a third party, having earlier priority, and the goods are identical or so similar as to create a risk of confusion between the marks, including confusion based on association;

(d) is identical or similar to a trademark well known in Georgia before filing of an application for registration that there is a risk of confusion with it, including confusion based on association; this rule shall apply even where the lists of goods are different;

(e) is identical or so similar to an appellation of origin or geographical indication protected in Georgia, includes it or there is a risk of confusion with it, including confusion based on association, and registration of trademark is requested for identical or similar goods and/or by use of such trademark shall benefit from the reputation of the protected geographical indication or appellation of origin. This subparagraph shall not apply, where the geographical indication or appellation of origin is included in the trademark of a person enjoying the right to its use, as a part not qualifying for protection;

(f) is identical to an industrial design protected in Georgia except where registration of the trademark is sought by the holder of the exclusive rights in the industrial design protected in Georgia and having earlier priority;

(g) is identical or similar to a third party's registered trademark having earlier priority enjoying good reputation in Georgia, and if the use of that trademark creates unfair advantages for its applicant or damages the reputation of the protected trademark; this rule shall apply where there are different lists of goods;

(h) includes names, pseudonyms, facsimiles, portraits of persons famous in Georgia before filing the application for registration without the consent of these persons or their legatees, and if they belong to the history and culture of Georgia without the permission of the Ministry of Culture, Protection of Monuments and Sport of Georgia;

(i) includes the names of historical monuments of Georgia or of reproductions thereof without the permission of the Ministry of Culture, Protection of Monuments and Sport;

(j) includes a company name that causes a risk of confusion.

საქართველოს ინტელექტუალური საკუთრების ეროვნული ცენტრი
“საქპატენტი”
0179 თბილისი, ილია ჭავჭავაძის გამზ. I ჩიხი, №6, ტელ. (995 32) 25 27 94

ამონაწერი
სასაქონლო ნიშნების რეესტრიდან

/111/ რეგისტრაციის № **M 2006 16493**
/151/ რეგისტრაციის თარიღი **2006-02-15**
/181/ რეგისტრაციის ვადის
გასვლის თარიღი **2016-02-15**
/540/ სასაქონლო ნიშნის გამოსახულება

ტუსინი
Туссин
Tussin

/210/ განაცხადის №: **AM 033582**
/220/ განაცხადის მიღების თარიღი: **2005-02-09**
/230/ საგამოფენო მონაცემები:
/310/ პირველი განაცხადის №:
/320/ პირველი განაცხადის
მიღების თარიღი:
/330/ პირველი განაცხადის მიმღები
ქვეყნის (უწყების) კოდი:
/740/ წარმომადგენელი:

/591/ ფერი: შავ-თეთრი
/526/ დისკლამაცია:

/732/ მფლობელი და მისი მისამართი
სეგმელ ინკ.
1580 საუთ-მილუოკი ავენიუ, სუიტ 415, ლიბერტივილი, IL 60048, აშშ
Sagmel Inc.
1580 South Milwaukee Avenue, Suite 415, Libertyville, IL 60048, USA

/511/ საქონლისა და/ან მომსახურების ჩამონათვალი კლასიფიცირებული ნიშნის
საერთაშორისო კლასიფიკაციის მიხედვით

5 - ფარმაცევტული და ვეტერინარული პრეპარატები; სამედიცინო დანიშნულების ჰიგიენური პრეპარატები;
სამედიცინო დანიშნულების დიეტური ნივთიერებები; ბავშვთა კვება; სალბუნები, საბვევი მასალა; კბილის
დასაბუნე და კბილის ტვიფრის დასამზადებელი მასალები; მადეზინფიცირებელი საშუალებები; მავნე
ცხოველების გასანადგურებელი პრეპარატები; ფუნგიციდები, ჰერბიციდები.

სასაქონლო ნიშნების რეესტრის უფროსი



ნ. წიკლაური