

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 79/080039

MARK: 4 MOVE

79080039**CORRESPONDENT ADDRESS:**KANCELARIA OPTIMAS
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POLAND**RESPOND TO THIS ACTION:**<http://www.uspto.gov/teas/eTEASpageD.htm>**GENERAL TRADEMARK INFORMATION:**<http://www.uspto.gov/main/trademarks.htm>APPLICANT: FOODCARE SPÓLKA Z
O.O.CORRESPONDENT'S
REFERENCE/DOCKET NO:

N/A

CORRESPONDENT E-MAIL ADDRESS:

OFFICE ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE:**INTERNATIONAL REGISTRATION NO. 1031791**

This is a **PROVISIONAL FULL REFUSAL** of the trademark and/or service mark in the above-referenced U.S. application. *See* 15 U.S.C. §1141h(c).

WHO IS PERMITTED TO RESPOND TO THIS PROVISIONAL FULL REFUSAL:

Applicant may respond directly to this provisional refusal Office action if applicant is not represented by an authorized attorney. *See* 37 C.F.R. §2.193(e)(2)(ii). Otherwise, applicant's authorized attorney must respond on applicant's behalf. *See* 37 C.F.R. §2.193(e)(2)(i). However, **the only attorneys who are authorized to sign responses and practice before the USPTO** in trademark matters are as follows:

- (1) **Attorneys in good standing with a bar of the highest court of any U.S. state**, the District of Columbia, Puerto Rico, and other federal territories and possessions of the United States; and
- (2) **Canadian agents/attorneys** who represent applicants located in Canada and (a) are registered with the USPTO and in good standing as patent agents or (b) have been granted reciprocal recognition by the USPTO.

See 37 C.F.R. §§2.17(e), 2.62(b), 11.1, 11.5(b)(2), 11.14(a), (c); TMEP §§602, 712.03.

Foreign attorneys, other than authorized Canadian attorneys, are not permitted to represent applicants before the USPTO. *See* 37 C.F.R. §§2.17(e), 11.14(c), (e); TMEP §602.03-.03(b). That is, foreign

attorneys may not file written communications, authorize an amendment to an application, or submit legal arguments in response to a requirement or refusal, among other things. *See* 37 C.F.R. §11.5(b)(2); TMEP §§602.03(c), 608.01. If applicant is represented by such a foreign attorney, applicant must respond directly to this provisional refusal Office action. *See* 37 C.F.R. §2.193(e)(2)(ii).

THE APPLICATION HAS BEEN PROVISIONALLY REFUSED AS FOLLOWS:

Search Results

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62, 2.65(a); TMEP §§711, 718.03.

The Office records have been searched and there are no similar registered or pending marks that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

However, in order to pursue registration, applicant must respond to the following.

More Accurate and Concise Description of the Mark Required

The applicant submitted a description of the mark; however a more concise and accurate description is required. The following description is suggested:

“The mark consists of the text “4 MOVE” within a square background. The color black appears in half of the background, the color yellow appears in the other half of the square background, the color white appears in the text “4 MOVE” and the color grey appears in the outline of the letters in the word “MOVE”

Clarification of Identification of Goods Required

Some of the wording in the identification of goods must be clarified because it is indefinite and could include goods in other international classes. *See* TMEP §§1402.01, 1402.03.

The international classification of goods and/or services in applications filed under Trademark Act Section 66(a) cannot be changed from the classification the International Bureau assigned to the goods and/or services in the corresponding international registration. TMEP §§1401.03(d), 1904.02(b).

Therefore, any modification to this wording must identify goods and/or services in International Class 032, the classification specified in the application for these goods and/or services.

The examining attorney indicated below where clarification is required and provided suggestions that would be acceptable if adopted by applicant. The following substitute wording is suggested, if appropriate:

Class 032

“Essences for making *non-alcoholic* beverages; lemonades; lemonades powder; non alcoholic beverages, *namely {specify, e.g., non-alcoholic fruit juice beverages, non-alcoholic beverages with tea flavor, non-alcoholic malt beverages, etc.}*; effervescing beverages, *namely {specify, e.g., aerated water, soda pop}*; powder for effervescing beverages, *namely {specify, E.g., powders used in the preparation of soft drinks}*; fruit nectars; products and preparations for making energizers, *namely {specify the products, e.g., Powders used in the preparation of isotonic sports drinks and sports beverages}*; products and preparations for making refreshing beverages and micro-

elements concentrated beverages, *namely {specify the products, e.g., essences for making non-alcoholic refreshing beverages and micro-elements concentrated beverages, etc.}*; fruit juices; vegetable juices; sorbets; syrups for beverages; mineral water; aerated water; isotonic and energizing beverages, *namely, energy drinks*".

- the wording "products and preparations" is indefinite and requires clarification because it fails to identify specific goods. Applicant must indicate the products and preparations (ex: powders, syrups, etc.).
- the wording "pastilles for effervescing beverages" is confusing because pastilles are a confectionary in Class 030. The applicant should clarify what type of pastille is used for making beverages. Accordingly, the examining attorney did not include this language in the suggested identification of goods above.

Identifications of goods and/or services can be amended only to clarify or limit the goods and/or services; adding to or broadening the scope of the goods and/or services is not permitted. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*, 1402.07. Therefore, applicant may not amend the identification to include goods and/or services that are not within the scope of the goods and/or services set forth in the present identification.

For assistance with identifying and classifying goods and/or services in trademark applications, please see the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/netahhtml/tidm.html>. *See* TMEP §1402.04.

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RESPOND TO THIS ACTION: Applicant should file a response to this Office action online using the form at <http://www.uspto.gov/teas/eTEASpageD.htm>, waiting 48-72 hours if applicant received notification of the Office action via e-mail. For *technical* assistance with the form, please e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned examining attorney. **Do not respond to this Office action by e-mail; the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.