



**REPUBLIC OF ALBANIA**  
**MINISTRY OF ECONOMY, TRADE AND ENERGY**  
**DIRECTORATE GENERAL OF PATENTS AND TRADEMARKS**

No 21/3 Prot.

**MADRID AGREEMENT AND PROTOCOL**  
**PROVISIONAL REFUSAL OF PROTECTION NOTIFICATION**  
**Rule 17(1)**

I.	Office making the notification:  <b>DIRECTORATE GENERAL OF PATENTS AND TRADEMARKS</b> <b>Blloku "Vasil Shanto"; Rr. "Viktor Eftimiu", God. Ish – Institutit të Energjetikës,</b> <b>Tirana, ALBANIA</b> <b>Tel. +355 4 2362 451; Fax: +35542234412; www. alpto.gov.al</b> <b>e-mail: <a href="mailto:inf@alpto.gov.al">inf@alpto.gov.al</a></b>
II.	Number of the international registration: <b>1103380</b>
III.	Name of the holder (or other indication enabling the identity of the international registration to be confirmed):  <b>Dotchirne pidpriemstvo "Konditerska korporatzia "Roshen"</b> <b>vul. Pavla Usenka, 8</b> <b>Kyiv 02105 (UA)</b>
IV.	Provisional refusal is based on an opposition Name and address of the opponent:  <b>FERRERO S.P.A.</b> <b>Piazzale Pietro Ferrero, 1, I-12051 ALBA (CN), IT</b>
V.	Provisional refusal concerns <u>all</u> the goods and/or services
VI.	Grounds for refusal [(where applicable, see item VII)]:  <b>Conflict with prior rights of earlier registered trademarks</b>

VII. Information relating to an earlier mark :

- (i) Registration numbers:  
**IR 688261**  
**IR 799546**
- (ii) Reproduction of the marks and the lists of all or relevant goods and/or services: see additional information under XII:

VIII. Corresponding essential provisions of the applicable law [(see text under XII)]:

**Article 143 (2) b ; article 152 ; article 175 of Law 9947 dated 07.07.2008 "On Industrial Property"  
Chapter XVII point 2.1 of Council of Ministers Decision No 1706 dated 29.12.2008.**

IX. Information relating to subsequent procedure:

- (i) Time limit for requesting review or appeal:

***The applicant should file its arguments against the opposition within 3 months from the date of notification.***

- (ii) Authority to which such request for review or appeal should be made:

***Board of Appeal of Directorate General of Patents and Trademarks (ALBANIA)***

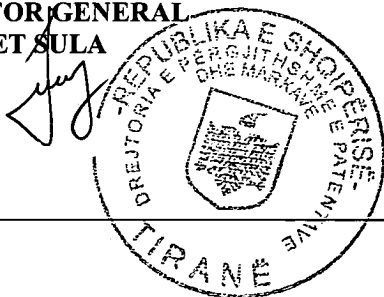
- (iii) Indications concerning the appointment of a representative:

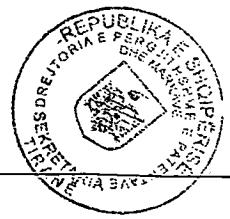
***An Albanian authorized representative should be appointed in order to participate in the proceedings before the Board of Appeal. The list of authorized representative can be found in the official web page of GDPT: [www.alpto.gov.al](http://www.alpto.gov.al)***

X. Date of the notification of provisional refusal: **July 10, 2012**

XI. Signature or official seal of the Office making the notification:

**DIRECTOR GENERAL  
SAFET SULA**





**XII. Corresponding essential provisions of the applicable law:**

**Albanian Law "On Industrial Property" No 9947 dated 07.07.2008.**

**- Article 143**

**Refusal on a Relative Basis**

1. A mark is not protected if its use is against prior rights.
2. A mark shall not be registered or, if registered, shall be liable to be declared invalid:
  - a) if it is identical with an earlier mark, and the goods or services for which the mark is applied for or is registered are identical with the goods or services for which the earlier mark is protected;
  - b) if it is identical with, or similar to, an earlier mark which is protected for identical or similar goods of services, and if, because of the identity or similarity of the marks and the goods or services covered by them, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier mark.

**- Article 152**

**Opposition to a Published Mark**

1. An opposition to a published mark is filed in GDPM within a three month period from the date of publication, against the payment of the respective tariff by:
  - a) the applicant of an earlier mark filed in the GDPT or the owner of an earlier mark registered in conformity with the definitions of points 1 and 2 of article 143 of this Law;

**- Article 175**

4. The time period for filing an opposition to an international registration of a mark in the Republic of Albania begins from the first day of the month following the month of publication of the mark in the official gazette of WIPO.

**- Article 195**

**Representation before the GDPT**

1. Representation of Persons before GDPT may only be undertaken by authorized representatives registered with the GDPT.
2. Persons may authorize one or more representatives for all or for some acts before the GDPT, by an authorization of representation.

**XII: Information relating to an earlier mark/or marks of the opponent**

- additional sheets/printout from the register or database:

13.6.2012



**799546**

- 151 **Date of the registration**  
28.01.2003
- 180 **Expected expiration date of the registration/renewal**  
28.01.2013
- 270 **Language of the application**  
French

**Current Status**

- 732 **Name and address of the holder of the registration**  
FERRERO S.P.A. Piazzale Pietro Ferrero, 1 I-12051 ALBA (CN) Italy
- 812 **Contracting State or Contracting Organization in the territory of which the holder has a real and effective industrial or commercial establishment**  
IT (Italy)
- 740 **Name and address of the representative**  
JACOBACCI & PARTNERS S.P.A. Corso Regio Parco 27 I-10152 TORINO (TO) Italy
- 770 **Name and address of the previous holder**  
FERRERO S.P.A. Piazzale Pietro Ferrero ALBA (CN) Italy
- 540 **Mark**



- 531 **International Classification of the Figurative Elements of Marks (Vienna Classification) - VCL(5)**  
05.07.06 ; 08.01.19 ; 26.01.02 ; 26.01.05 ; 27.05.01 ; 29.01.01 ; 29.01.02 ; 29.01.07
- 591 **Information concerning colors claimed**  
Gold, red, white, green, light brown, yellow.  
Or, rouge, blanc, vert, marron clair, jaune.
- 571 **Description of the mark**  
The mark consists in an oval imprint arranged horizontally and bordered by a thick gold line on a white background, with in its interior a double line of varying widths coloured gold and red; in the centre the denomination, FERRERO ROCHER, of which the word FERRERO forms part of the applicant's commercial name, in original upper-case brown type; below, superimposed on the border line, the image of a chocolate with gold wrapping set in a gold and brown Swedish-style paper cup; on the top of the chocolate, an oval imprint arranged horizontally, with an outer gold line and a fine red inner line and a white fill containing in the centre the denomination FERRERO ROCHER, arranged on two lines, in original brown upper-case type; on the left a partial representation of a brown and light brown unwrapped praline; on the right a representation of a light brown and yellow hazelnut with a green leaf; all on a white background.



La marque consiste dans une empreinte ovale disposée horizontalement limitée par un trait épais de couleur or sur fond blanc, avec à l'intérieur un double trait de différente épaisseur de couleur or et rouge; au centre la dénomination, disposée sur deux lignes, FERRERO ROCHER, dont le mot FERRERO fait partie de la dénomination sociale de la requérante, en caractères d'imprimerie majuscules originaux de couleur marron; dans la partie inférieure, superposée par rapport au trait de limite, l'image d'un chocolat emballé de couleur or posé sur caissette suédoise de couleur or et marron; dans la partie supérieure du chocolat, empreinte ovale disposée horizontalement, avec un trait externe de couleur or et un trait interne, fin et rouge et un fond blanc contenant au centre la dénomination disposée sur deux lignes, FERRERO ROCHER, en caractères d'imprimerie majuscules originaux de couleur marron; sur la gauche, représentation partielle d'une praline sans emballage de couleur marron et marron clair; sur la droite représentation d'une noisette avec feuille verte, marron clair et jaune; le tout sur fond blanc.

**511 International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification) - NCL(8)**

- 30 Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flours and milled cereal products (except for fodder); bread, biscuits, cakes, pastry and confectionery, edible ice; honey, treacle; yeast, baking powder; cooking salt, mustard; pepper, vinegar, sauces; spices; ice for refreshment, cocoa, cocoa products, namely paste for cocoa beverages, chocolate paste, toppings and, including, chocolate toppings, chocolate, pralines, chocolate articles for Christmas-tree decorations, food products consisting of an edible chocolate casing filled with an alcoholic liquid, sweet products, pastries, including fine pastry and longlife pastry; chewing-gum, sugarless chewing gum, sugarless candies.

**822 Basic registration**

IT (Italy), 28.01.2003, 881970

**300 Data relating to priority under the Paris Convention and other data relating to registration of the mark in the country of origin**

IT (Italy), 06.12.2002, TO 2002 C003576

**831 Designation(s) under the Madrid Agreement**

DZ (Algeria)

**832 Designation(s) under the Madrid Protocol**

AG (Antigua and Barbuda), AU (Australia), DK (Denmark), EE (Estonia), FI (Finland), GB (United Kingdom), GE (Georgia), GR (Greece), IE (Ireland), IS (Iceland), JP (Japan), LT (Lithuania), NO (Norway), SE (Sweden), SG (Singapore), TM (Turkmenistan), TR (Turkey), UZ (Uzbekistan), ZM (Zambia)

**834 Designation(s) under the Madrid Protocol by virtue of Article 9sexies**

AL (Albania), AM (Armenia), AT (Austria), AZ (Azerbaijan), BA (Bosnia and Herzegovina), BG (Bulgaria), BT (Bhutan), BX (Benelux), BY (Belarus), CH (Switzerland), CN (China), CU (Cuba), CZ (Czech Republic), EG (Egypt), ES (Spain), FR (France), HR (Croatia), HU (Hungary), KE (Kenya), KG (Kyrgyzstan), KP (Democratic People's Republic of Korea), KZ (Kazakhstan), LI (Liechtenstein), LR (Liberia), LS (Lesotho), LV (Latvia), MA (Morocco), MC (Monaco), MD (Republic of Moldova), ME (Montenegro), MK (The former Yugoslav Republic of Macedonia), MN (Mongolia), MZ (Mozambique), PL (Poland), PT (Portugal), RO (Romania), RS (Serbia), RU (Russian Federation), SD (Sudan), SI (Slovenia), SK (Slovakia), SL (Sierra Leone), SM (San Marino), SZ (Swaziland), TJ (Tajikistan), UA (Ukraine), VN (Viet Nam)

**527 Indications regarding use requirements**

GB (United Kingdom), IE (Ireland), SG (Singapore)



## Registration

450 **Publication number and date**

2003/7 Gaz, 15.05.2003

831 **Designation(s) under the Madrid Agreement**

AL (Albania), AM (Armenia), AT (Austria), AZ (Azerbaijan), BA (Bosnia and Herzegovina), BG (Bulgaria), BT (Bhutan), BX (Benelux), BY (Belarus), CH (Switzerland), CN (China), CU (Cuba), CZ (Czech Republic), DZ (Algeria), EG (Egypt), ES (Spain), FR (France), HR (Croatia), HU (Hungary), KE (Kenya), KG (Kyrgyzstan), KP (Democratic People's Republic of Korea), KZ (Kazakhstan), LI (Liechtenstein), LR (Liberia), LS (Lesotho), LV (Latvia), MA (Morocco), MC (Monaco), MD (Republic of Moldova), MK (The former Yugoslav Republic of Macedonia), MN (Mongolia), MZ (Mozambique), PL (Poland), PT (Portugal), RO (Romania), RU (Russian Federation), SD (Sudan), SI (Slovenia), SK (Slovakia), SL (Sierra Leone), SM (San Marino), SZ (Swaziland), TJ (Tajikistan), UA (Ukraine), UZ (Uzbekistan), VN (Viet Nam), YU (Serbia and Montenegro)

832 **Designation(s) under the Madrid Protocol**

AG (Antigua and Barbuda), AU (Australia), DK (Denmark), EE (Estonia), FI (Finland), GB (United Kingdom), GE (Georgia), GR (Greece), IE (Ireland), IS (Iceland), JP (Japan), LT (Lithuania), NO (Norway), SE (Sweden), SG (Singapore), TM (Turkmenistan), TR (Turkey), ZM (Zambia)

527 **Indications regarding use requirements**

GB (United Kingdom), IE (Ireland), SG (Singapore)

580 **Date of recording (date of notification from which the time limit to notify the refusal starts)**

24.04.2003

**The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)**

AG (Antigua and Barbuda)

**The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)**

AL (Albania)

**The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)**

AM (Armenia)

**The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)**

AT (Austria)

**The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)**

AZ (Azerbaijan)

**The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)**

BA (Bosnia and Herzegovina)

**The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)**

BG (Bulgaria)

**The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)**



13.6.2012

**688261**

- 151**     **Date of the registration**  
16.02.1998
- 180**     **Expected expiration date of the registration/renewal**  
16.02.2018
- 270**     **Language of the application**  
French

### **Current Status**

- 732**     **Name and address of the holder of the registration**  
FERRERO S.P.A. Piazzale Pietro Ferrero, 1 I-12051 ALBA (CN) Italy
- 812**     **Contracting State or Contracting Organization in the territory of which the holder has a real and effective industrial or commercial establishment**  
IT (Italy)
- 740**     **Name and address of the representative**  
JACOBACCI & PARTNERS SpA Corso Regio Parco, 27 I-10152 TORINO Italy
- 770**     **Name and address of the previous holder**  
FERRERO S.P.A. Piazzale Pietro Ferrero ALBA (CN) Italy
- 540**     **Mark**  
ROCHER
- 541**     **Reproduction of the mark where the mark is represented in standard characters**
- 571**     **Description of the mark**  
The mark consists of the word: ROCHER.  
La marque consiste dans le mot: ROCHER.
- 566**     **Translation of the mark or of words contained in the mark**  
ROCHER
- 511**     **International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification) - NCL(7)**
- 29     Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruit and vegetables; jellies, jams, compotes; eggs, milk and dairy products; edible oils and fats.
- 30     Coffee, tea, sugar, rice, tapioca, sago, coffee substitutes; flour and milled cereal products (except for fodder); bread, biscuits, cakes, pastry and confectionery, edible ice; honey, treacle; yeast, baking powder; cooking salt, mustard; pepper, vinegar, sauces; spices; ice for refreshment, cocoa, cocoa products, namely paste for cocoa drinks, chocolate paste, toppings and, particularly, chocolate toppings, chocolate, pralines, chocolate articles for use as Christmas tree decorations, food products consisting of an edible chocolate casing filled with alcohol, sweet products, pastries, including fine and long-life pastries; chewing gum, sugar-free chewing gum, sugar-free sweets.
- 822**     **Basic registration**  
IT (Italy), 16.02.1998, 740137
- 300**     **Data relating to priority under the Paris Convention and other data relating to registration of the mark in the country of origin**  
IT (Italy), 16.12.1997
- 300**     **Data relating to priority under the Paris Convention and other data relating to registration of the mark in the country of origin**  
IT (Italy), 16.12.1997, TO 97C 3321



831 **Designation(s) under the Madrid Agreement**  
DZ (Algeria)

832 **Designation(s) under the Madrid Protocol**

AG (Antigua and Barbuda), BQ (Bonaire, Saint Eustatius and Saba), CW (Curaçao), DK (Denmark), EE (Estonia), FI (Finland), GE (Georgia), GR (Greece), IE (Ireland), LT (Lithuania), NO (Norway), SE (Sweden), SX (Sint Maarten (Dutch part)), TM (Turkmenistan), TR (Turkey), UZ (Uzbekistan), ZM (Zambia)

834 **Designation(s) under the Madrid Protocol by virtue of Article 9sexies**

AL (Albania), AM (Armenia), AT (Austria), AZ (Azerbaijan), BA (Bosnia and Herzegovina), BG (Bulgaria), BX (Benelux), BY (Belarus), CN (China), CU (Cuba), CZ (Czech Republic), EG (Egypt), ES (Spain), HR (Croatia), HU (Hungary), KE (Kenya), KG (Kyrgyzstan), KP (Democratic People's Republic of Korea), KZ (Kazakhstan), LI (Liechtenstein), LR (Liberia), LS (Lesotho), LV (Latvia), MA (Morocco), MC (Monaco), MD (Republic of Moldova), ME (Montenegro), MK (The former Yugoslav Republic of Macedonia), MN (Mongolia), MZ (Mozambique), PL (Poland), PT (Portugal), RO (Romania), RS (Serbia), RU (Russian Federation), SD (Sudan), SI (Slovenia), SK (Slovakia), SL (Sierra Leone), SM (San Marino), SZ (Swaziland), TJ (Tajikistan), UA (Ukraine), VN (Viet Nam)

527 **Indications regarding use requirements**  
IE (Ireland)

## **Registration**

450 **Publication number and date**

1998/10 Gaz, 02.07.1998(1998/5 Gaz,23.04.1998)

831 **Designation(s) under the Madrid Agreement**

AL (Albania), AM (Armenia), AT (Austria), AZ (Azerbaijan), BA (Bosnia and Herzegovina), BG (Bulgaria), BX (Benelux), BY (Belarus), CN (China), CU (Cuba), CZ (Czech Republic), DZ (Algeria), EG (Egypt), ES (Spain), HR (Croatia), HU (Hungary), KG (Kyrgyzstan), KP (Democratic People's Republic of Korea), KZ (Kazakhstan), LI (Liechtenstein), LR (Liberia), LV (Latvia), MA (Morocco), MC (Monaco), MD (Republic of Moldova), MK (The former Yugoslav Republic of Macedonia), MN (Mongolia), PL (Poland), PT (Portugal), RO (Romania), RU (Russian Federation), SD (Sudan), SI (Slovenia), SK (Slovakia), SL (Sierra Leone), TJ (Tajikistan), UA (Ukraine), UZ (Uzbekistan), VN (Viet Nam), YU (Serbia and Montenegro)

580 **Date of recording (date of notification from which the time limit to notify the refusal starts)**  
04.06.1998

**The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)**

AL (Albania)

**The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)**

AM (Armenia)

**The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)**

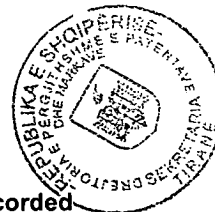
AT (Austria)

**The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)**

AZ (Azerbaijan)

**The refusal period has expired and no notification of provisional refusal has been recorded**





**(application of Rule 5 preserved)**

**BA (Bosnia and Herzegovina)**

**The refusal period has expired and no notification of provisional refusal has been recorded**

**(application of Rule 5 preserved)**

**BG (Bulgaria)**

**The refusal period has expired and no notification of provisional refusal has been recorded**

**(application of Rule 5 preserved)**

**BX (Benelux)**

**The refusal period has expired and no notification of provisional refusal has been recorded**

**(application of Rule 5 preserved)**

**CN (China)**

**The refusal period has expired and no notification of provisional refusal has been recorded**

**(application of Rule 5 preserved)**

**CU (Cuba)**

**The refusal period has expired and no notification of provisional refusal has been recorded**

**(application of Rule 5 preserved)**

**CZ (Czech Republic)**

**The refusal period has expired and no notification of provisional refusal has been recorded**

**(application of Rule 5 preserved)**

**DZ (Algeria)**

**The refusal period has expired and no notification of provisional refusal has been recorded**

**(application of Rule 5 preserved)**

**HR (Croatia)**

**The refusal period has expired and no notification of provisional refusal has been recorded**

**(application of Rule 5 preserved)**

**HU (Hungary)**

**The refusal period has expired and no notification of provisional refusal has been recorded**

**(application of Rule 5 preserved)**

**KP (Democratic People's Republic of Korea)**

**The refusal period has expired and no notification of provisional refusal has been recorded**

**(application of Rule 5 preserved)**

**LI (Liechtenstein)**

**The refusal period has expired and no notification of provisional refusal has been recorded**

**(application of Rule 5 preserved)**

**LR (Liberia)**

**The refusal period has expired and no notification of provisional refusal has been recorded**

**(application of Rule 5 preserved)**

**LV (Latvia)**

**The refusal period has expired and no notification of provisional refusal has been recorded**

**(application of Rule 5 preserved)**

**MA (Morocco)**

**The refusal period has expired and no notification of provisional refusal has been recorded**

**(application of Rule 5 preserved)**

**MC (Monaco)**

**The refusal period has expired and no notification of provisional refusal has been recorded**

**(application of Rule 5 preserved)**

**MK (The former Yugoslav Republic of Macedonia)**