

MADRID AGREEMENT AND PROTOCOL
PROVISIONAL REFUSAL OF PROTECTION

Rule 17(1)

I.	Office making the notification: Ukrainian Institute of Industrial Property 1 Hlazunova str. Kyiv-42, 01601 Ukraine
II.	Number of the international registration: 1103796
III.	Name of the holder: Obschestvo s ogranichennoy otvetstvennost'yu "Laboratoriya sovremennogo zdoroviya" ul. Khimzavodskaya, 11/20 RU-633004 Berdsk, Novosibirskaya obl. (RU)
IV.	☒ Provisional refusal based on an <i>ex officio</i> examination ☐ Provisional refusal based on an opposition ☐ Provisional refusal based on both an <i>ex officio</i> examination and an opposition
V.	☒ Provisional refusal for all the goods and/or services ☐ Provisional refusal for the following goods and/or services:
VI.	Grounds for refusal: The sign shall not be registered as mark because it is misleadingly similar to marks that were earlier registered in Ukraine on behalf of another person for similar goods or services.
VII.	Information relating to an earlier mark: International registration № 582023 of 14.01.1992 (subsequent designation 30.01.1996) on the name of Boehringer Ingelheim Vetmedica GmbH; 55218 Ingelheim (DE) International registration № 1087734 of 25.10.2010 on the name of Apivita S.A.; Koleti Str. No. 3 GR-144 52 Athens (GR)
VIII.	Corresponding essential provisions of the applicable law (see text under XII): Article 6.3.1
IX.	Information relating to subsequent procedure: (i) Time limit for requesting review or appeal: 3 months from the date of the notification of provisional refusal. This period may be extended for no more than 6 months provided that the relevant request is submitted and the fee in connection with the request is paid before the date of expiry of this period. (ii) Authority to which such request for review or appeal should be made: Ukrainian Institute of Industrial Property (iii) Indications concerning the appointment of a representative: http://www.sdip.gov.ua/en/attorneys_register_2.html

X. Date of the notification of provisional refusal: 17.10.2012

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

A handwritten signature in black ink, appearing to read 'Sukhinova', written in a cursive style.

Head of the Department of
International Trademark Registrations

Svitlana Sukhinova

XII. Corresponding essential provisions of the applicable law:

**SECTION II
LEGAL PROTECTION OF MARKS**

Article 5. Conditions of Granting the Legal Protection

1. The legal protection is granted to a mark that does not contradict the public order, humane and moral principles and is not subject to the refusal of the rights protection according to the grounds defined by this Law.

Article 6. Grounds for Refusal of the Legal Protection

1. According to this Law, the legal protection shall not be granted for marks that represent or imitate:

State armorial bearings, flags, and other state symbols (emblems); official names of States; symbols and abbreviated or full names of international intergovernmental organizations; official control, guarantee, or testing seals, stamps; decorations and other honorary signs.

The said signs may be included in a mark as non-protected elements, provided that the consent of the relevant authorized body or of the sign owners was obtained. The authorized body with respect to the name of a State is the collegial body established by the Office.

2. According to this Law, the legal protection shall not be granted for marks that:
 - 1) are usually devoid of distinguishing capacity and did not obtain such a capacity through their use;
 - 2) consist exclusively of signs that are commonly used as the signs of goods and services of a certain type;
 - 3) consist exclusively of signs or data that are descriptive while using for goods and services defined in the application or with respect to them, in particular signs or data that indicate kind, quality, composition, quantity, properties, purposes, value of goods and services, the place and time of manufacturing or sale of goods or rendering of services;
 - 4) are deceptive or liable to mislead as to goods, services, or the person producing goods or rendering services;
 - 5) consist exclusively of signs that are commonly used symbols and terms;
 - 6) present only the form caused by the natural state of goods, or by the necessity to get a specific technical result, or the form imparting the essential value to the goods.

The signs mentioned in Items 1, 2, 3, 5 and 6 of this Paragraph may be used in a mark as non-protected elements if these signs are not dominative in the reproduction of a mark.

3. Signs shall not be registered as marks if they are identical or misleadingly similar to:
 - 1) marks that were earlier registered or filed for the registration in Ukraine on behalf of another person for identical or similar goods and services;
 - 2) marks of other persons if these marks are protected without registration according to the international agreements to which Ukraine is a party, in particular the marks recognized as well-known marks according to Article 6-bis of the Paris Convention for the Protection of Industrial Property;
 - 3) trade names that are known in Ukraine and belong to other persons who have acquired the right to the said names before the date of filing the applications to the Office with respect to identical or similar goods and services;
 - 4) qualified indications of the origin of goods (including alcohols and alcohol drinks) that are protected according to the Law of Ukraine "On the Protection of Rights to Indication of the Origin of Goods"; the said signs may be used only as non-protected elements of the marks of the persons who have the right to use the said indications;
 - 5) conformity marks (certification marks) that have been registered under the determined procedure.

4. Signs shall not be registered if they represent:

- 1) industrial designs, the rights to which in Ukraine belong to other persons;
- 2) titles of scientific, literary, and artistic works known in Ukraine or quotations and characters from the said works as well as the artistic works and their fragments without the consent of copyright holders or their successors in title;
- 3) surnames, first names, pseudonyms and their derivatives, portraits and facsimiles of persons known in Ukraine without their consent.

582023

AMPIVET

(151) **14.01.1992**
(180) 14.01.2022
(270) French
(300) DE, 12.10.1991, 2 006 868
(732) **Boehringer Ingelheim Vetmedica GmbH**
55218 Ingelheim; DE
(811) DE
(750) **Boehringer Ingelheim GmbH,**
CDept Trademarks & Unfair Competition
Binger Strasse 173
55216 Ingelheim; DE
(770) **Boehringer Ingelheim Vetmedica GmbH**
Binger Strasse 173
Ingelheim; DE
(821) DE, 12.10.1991
(822) DE, 04.12.1991, 2 006 868
(834) Ukraine is designated under the Madrid Protocol by virtue of Article 9sexies
(511) **Cl.: 05**
05 Produits vétérinaires.

AMPIVET

Subsequent designation

(450) 1996/1 LMi, 19.03.1996
(831) BG - CZ - HU - LV - PL - RO - RU - SI - SK - **UA** - YU
(580) 15.02.1996
(891) Date of subsequent designation (Rule 24(6) of the Common Regulations)
30.01.1996

Balances of fees

(450) 1996/2 Gaz, 25.06.1996
(580) 28.03.1996

Renewal

(450) 2012/3 Gaz, 09.02.2012
(834) AT - BG - BX - CH - CZ - ES - FR - HU - IT - LV - PL - RO - RU - SK - **UA**

Data as of 08.10.2012

(151) 25.10.2010

(180) 25.10.2020

(270) English

(591) Black and white.

Noir et blanc.

(732) **Apivita S.A.**

Koleti Str. No. 3

GR-144 52 Athens; GR

(811) GR

(842) S.A., Greece

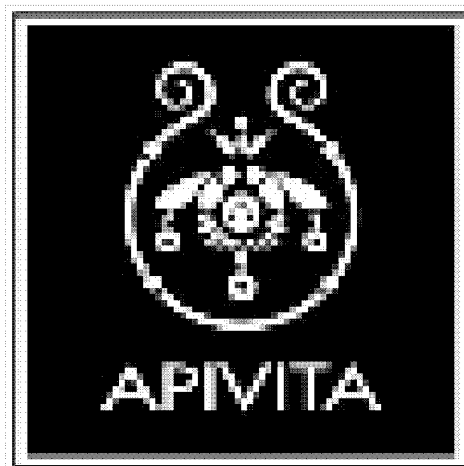
(740) **VGENOPOULOS & PARTNERS**

15 Filikis Eterias Sq.

GR-106 73 Athens; GR

(821) EM, 05.03.2009, 008139545

(832) Ukraine is designated under the Madrid Protocol

(511) **Cl.: 03, 05, 30, 35**

17.02.13 25.01.25 26.04.07 26.04.24
29.01.12

03 Cosmetic preparations for slimming purposes, cosmetics, cosmetic creams, skin whitening creams, aromatic essential oils (such as aromatherapy oils), cosmetic preparations for bath and shower, after shave lotions (such as balms gels and creams), almond milk for cosmetic purposes, almond oil, almond soap, ethereal essences, ethereal oils, extracts of flowers (perfumes) eau de cologne, eyebrow cosmetics, crayons for cosmetics use, non-medicated creams for protection against the sun; cosmetic skin preparations for protection against the effects of the sun; cosmetic sun protection products including non-medicated creams and lotions; non-medicated after-sun products including creams and lotions; make-up cosmetic products such as foundations (all make up liquid, make up compact foundations), powders (compact powders, loose powders), eye and lip colours, eye and lip pencils, eye liners and liquid lip colours, powdery cheek colours, liquid cheek colours, brow pencils, brow powder, make-up accessories (such as brushes), make-up removing cosmetic products such as creams, lotions and impregnated cloth for cosmetic use; beauty masks, astringents for cosmetic purposes, antiperspirant soap, breath freshening sprays, dentifrices, denture polishes preparations for cleaning dentures, cleansing milk for toilet purposes, cosmetic kits, cotton sticks and cotton wool for cosmetic purposes, deodorant soap, liquid soap, medicated shampoo, deodorant for personal use, depilatories, depilatory preparations, cosmetic dyes, make-up powder, cosmetic products for lip protection, conditioners for treating the hair (such as hair care products, hair lotions), hair dyes.

Préparations cosmétiques pour l'amincissement, cosmétiques, crèmes cosmétiques, crèmes pour blanchir la peau, huiles essentielles aromatiques (telles que huiles d'aromathérapie), préparations cosmétiques pour le bain et la douche, lotions après-rasage (telles que baumes, gels et crèmes), lait d'amandes à usage cosmétique, huile d'amandes, savon d'amandes, essences éthériques, huiles essentielles, extraits de fleurs (parfums), eau de Cologne, cosmétiques pour les sourcils, crayons à usage cosmétique, crèmes non médicamenteuses de protection solaire; produits cosmétiques pour protéger la peau contre les coups de soleil; cosmétiques antisolaires, y compris crèmes et lotions non médicamenteuses; produits après-soleil non médicamenteux, y compris crèmes et lotions; produits cosmétiques de maquillage tels que fonds de teint (tous types de fonds de teint compacts et liquides pour le maquillage), poudres (poudres compactes, poudres libres), couleurs pour les yeux et les lèvres, crayons pour les yeux et les lèvres, crayons contour des yeux et couleurs liquides pour les lèvres, fards à joues en poudre, fards à joues liquides, crayons à sourcils, poudre à sourcils, accessoires de maquillage (tels que pinceaux), produits cosmétiques démaquillants tels que crèmes, lotions et lingettes imprégnées à usage cosmétique; masques de beauté, astringents à usage cosmétique, savons contre la transpiration, aérosols pour rafraîchir l'haleine, dentifrices, préparations pour polir les prothèses dentaires, préparations pour le nettoyage des prothèses dentaires, laits de toilette, trousses de cosmétiques, bâtonnets ouatés et coton hydrophile à usage cosmétique, savons déodorants, savon liquide, shampooings traitants, déodorants à usage personnel, dépilatoires, produits épilatoires, teintures cosmétiques, poudres pour le maquillage, produits cosmétiques pour la protection des lèvres, après-shampooings traitants pour les cheveux (tels que produits de soin capillaire, lotions capillaires), colorants pour cheveux.

05 Pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; disinfectants; preparations for destroying vermin; fungicides, herbicides.

Produits pharmaceutiques et vétérinaires; produits hygiéniques pour la médecine; substances diététiques à usage médical, aliments pour bébés; emplâtres, matériel pour pansements; désinfectants; produits pour détruire la vermine; fongicides, herbicides.

30 Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder salt, mustard; vinegar, sauces (condiments); spices; ice.

Café, thé, cacao, sucre, riz, tapioca, sagou, succédanés du café; farines et préparations faites de céréales, pain, pâtisserie et confiserie, glaces comestibles; miel, sirop de mélasse; levure, poudre à lever, sel, moutarde; vinaigre, sauces [condiments]; épices; glace à rafraîchir.

35 The bringing together, for the benefit of others, of a variety of goods, namely, cosmetic preparations for slimming purposes, cosmetics, cosmetic creams, skin whitening creams, aromatic essential oils (such as aromatherapy oils), cosmetic preparations for bath and shower, after shave lotions (such as balms gels and creams), almond milk for cosmetic purposes, almond oil,

almond soap, ethereal essences, ethereal oils, extracts of flowers (perfumes) eau de cologne, eyebrow cosmetics, crayons for cosmetics use, non-medicated creams for protection against the sun, cosmetic skin preparations for protection against the effects of the sun, cosmetic sun protection products including non-medicated creams and lotions, non-medicated after-sun products including creams and lotions, make-up cosmetic products such as foundations (all make up liquid, make up compact foundations), powders (compact powders, loose powders), eye and lip colours, eye and lip pencils, eye liners and liquid lip colours, powdery cheek colours, liquid cheek colours, brow pencils, brow powder, make-up accessories (such as brushes), make-up removing cosmetic products such as creams, lotions and hankies, beauty masks, astringents for cosmetic purposes, antiperspirant soap, breath freshening sprays, dentifrices denture polishes preparations for cleaning dentures, cleansing milk for toilet purposes, cosmetic kits, cotton sticks and cotton wool for cosmetic purposes, deodorant soap, liquid soap, medicated shampoo, deodorant for personal use, depilatories, depilatory preparations, cosmetic dyes, make-up powder, cosmetic products for lip protection, conditioners for treating the hair (such as hair care products, hair lotions), hair dyes, pharmaceutical and veterinary preparations, sanitary preparations for medical purposes, dietetic substances adapted for medical use, food for babies, plasters, materials for dressings, material for stopping teeth, dental wax, disinfectants, preparations for destroying vermin, fungicides, herbicides, coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee, flour and preparations made from cereals, bread, pastry and confectionery, ices, honey, treacle, yeast, baking-powder salt, mustard, vinegar, sauces (condiments), spices, ice, enabling customers to conveniently view and purchase those goods from a retail store and/or from general merchandise catalogue or general merchandise Internet website by means of telecommunications; provision of information, advise and/or assistance to customers in the selection of goods brought together by means of any of the aforesaid services.

Regroupement, pour des tiers, de produits divers, à savoir préparations cosmétiques pour l'amincissement, cosmétiques, crèmes cosmétiques, crèmes pour blanchir la peau, huiles essentielles aromatiques (telles que huiles d'aromathérapie), préparations cosmétiques pour le bain et la douche, lotions après-rasage (telles que baumes, gels et crèmes), lait d'amandes à usage cosmétique, huile d'amandes, savon d'amandes, essences éthériques, huiles essentielles, extraits de fleurs (parfums), eau de Cologne, cosmétiques pour les sourcils, crayons à usage cosmétique, crèmes non médicamenteuses de protection solaire, produits cosmétiques pour protéger la peau contre les coups de soleil, cosmétiques antisolaires, y compris crèmes et lotions non médicamenteuses, produits après-soleil non médicamenteux, y compris crèmes et lotions, produits cosmétiques de maquillage tels que fonds de teint (tous types de fonds de teint compacts et liquides pour le maquillage), poudres (poudres compactes, poudres libres), couleurs pour les yeux et les lèvres, crayons pour les yeux et les lèvres, crayons contour des yeux et couleurs liquides pour les lèvres, fards à joues en poudre, fards à joues liquides, crayons à sourcils, poudre à sourcils, accessoires de maquillage (tels que pinceaux), produits cosmétiques démaquillants tels que crèmes, lotions et lingettes, masques de beauté, astringents à usage cosmétique, savon contre la transpiration, aérosols pour rafraîchir l'haleine, dentifrices, préparations pour polir et nettoyer les prothèses dentaires, laits de toilette, trousse de cosmétiques, bâtonnets ouatés et coton hydrophile à usage cosmétique, savons déodorants, savon liquide, shampooings traitants, déodorants à usage personnel, dépilatoires, produits épilatoires, teintures cosmétiques, poudres pour le maquillage, produits cosmétiques pour la protection des lèvres, après-shampooings traitants pour les cheveux (tels que produits de soin capillaire, lotions capillaires), colorants pour cheveux, produits pharmaceutiques et vétérinaires, produits hygiéniques pour la médecine, substances diététiques à usage médical, aliments pour bébés, emplâtres, matériel pour pansements, matières pour plomber les dents et pour empreintes dentaires, désinfectants, produits pour détruire la vermine, fongicides, herbicides, café, thé, cacao, sucre, riz, tapioca, sagou, succédanés du café, farines et préparations faites de céréales, pain, pâtisserie et confiserie, glaces comestibles, miel, sirop de mélasse, levure, poudre à lever, sel, moutarde, vinaigre, sauces (condiments), épices, glace à rafraîchir, permettant aux clients de les voir et de les acheter commodément dans des magasins de vente au détail et/ou par le biais de catalogues d'articles d'usage courant ou sur des sites Internet d'articles d'usage courant au moyen des télécommunications; fourniture d'informations, prestation de conseils et/ou aide à la clientèle pour le choix de produits regroupés au moyen de chacun des services précités.

Registration

(450) 2011/33 Gaz, 08.09.2011

(832) AL - AU - BA - BH - CH - CN - EG - FI - HR - IL - IS - KP - NO - RS - RU - SE - SG - **UA** - US

(580) 01.09.2011

Cancellation effected for some of the goods and services at the request of an Office of origin in accordance with Article 6(4) of the Agreement or Article 6(4) of the Protocol

(450) 2012/5 Gaz, 23.02.2012

Class 3 is cancelled.

La classe 3 est radiée.

The other classes remain unchanged.

Les autres classes ne sont pas modifiées.

Facts and decisions:

The Community trade mark application No. 008139545 has been the subject of a partial ceasing of effect. The effective date is 16/06/2011.

La demande d'enregistrement de marque communautaire numéro 008139545 a fait l'objet d'une cessation partielle des effets entrée en application le 16.06.2011.

UA Ex Officio examination completed but opposition or observations by third parties still possible, under Rule 18bis(1)

(450) 2012/18 Gaz, 24.05.2012

Opposition end date:

03.08.2012

UA	Statement of grant of protection made under Rule 18ter(1)
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(450) 2012/32 Gaz, 30.08.2012

Data as of 08.10.2012