

**MADRID AGREEMENT AND PROTOCOL**  
**PROVISIONAL REFUSAL OF PROTECTION**

**RULE 17.1) OF THE COMMON REGULATIONS UNDER THE MADRID AGREEMENT  
CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS  
AND THE PROTOCOL RELATING TO THAT AGREEMENT**

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I. Office notifying the refusal: **National Center of Intellectual Property**

**20, ul. Koziova, Minsk 220034, Belarus**

**Telephone (Department of Trademarks): (+375 17) 392 51 97, (+375 17) 294 81 99**

**Fax: (+375 17) 294 36 56**

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II. Number of the international registration: **1 182 230**

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III. Name and address of the holder of the international registration:

**Tovarystvo z obmezhenoiu vidpovidalnistiu "Vydavnychi dim "VAVYLON"**

**vul. Syretska, bud. 2, Kyiv 04073 (Ukraine)**

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IV. Provisional refusal based on an *ex-officio* examination

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V. Grounds for refusal:

The trademark is:

-- identical to the word trademark "PINK" being the object of national registration No. 49 036 (filing date: 2012.01.04) registered in the name of Gorovoy Sergey Aleksandrovich (address: kv. 49,d. 2, ul. Yunosti, g. Kiev, 02192, Ukraine) for the goods and services of cl. 16; 35; 38; 41; 42;

-- misleadingly similar to the word trademark "PINK TV" being the object of international registration № 1 023 881 registered on 2009.01.23 in the name of PINK TV (address: 20-22 rue de Turenne, F-75004 PARIS, France) for the services of cl. 35; 38; 41.

For the lists of goods and services of the mentioned trademarks see the annex.

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VI. Applicable provisions of the national law (see text under X): **5.1.1. 5.1.2.**

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VII.

☒ Refusal for all the goods and/or services: **Cl. 16; 35; 38; 41; 42.**

☐ Refusal for the following goods and/or services.

☐ Protection for the following goods and/or services:

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VIII. Appeal against the decision of refusal:

a) time limit for requesting appeal: **3 months from the date on which the notification was received by the holder of the international registration;**

b) authority to which request for appeal should be made: **National Center of Intellectual Property (see address under I);**

c) appeal may be filed through a patent attorney registered with the National Center of Intellectual Property (a list of the registered patent attorneys is available at [http://www.belgopatent.org.by/index.php?option=com\\_content&view=article&id=136&Itemid=54](http://www.belgopatent.org.by/index.php?option=com_content&view=article&id=136&Itemid=54))

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IX. Date: **2014.09.19**

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X.

**Law on Trademarks and Service Marks  
of the Republic of Belarus  
of February 5, 1993  
(Latest Edition of July 9, 2012)**

(Extract)

**1. Trademarks and Service Marks**

1. Trademarks and service marks (hereinafter referred to as «trademarks») are signs which serve to distinguish the goods or services (hereinafter referred to as «goods») of one person from those of the same type of another person.

2. Signs which may be registered as trademarks are words including personal names, combinations of colors, letters, numerals, figurative elements, three-dimensional signs including the shape of the goods or their packaging as well as any combination of such signs. Other signs may be registered as trademarks in cases defined by the laws of the Republic of Belarus.

3. A trademark may be registered in any color or in any combination of colors.

**2. Legal Protection of Trademarks**

3. The right to the trademark is protected by the State. The registration of a trademark shall give rise to the issue of a trademark certificate. The trademark certificate shall attest the priority date of the trademark and the owner's exclusive rights in the trademark in relation to the goods specified in the certificate; it shall contain a representation of the trademark.

**4. Absolute Grounds for Refusal of Registration**

1. Those trademarks may not be registered:

- 1.1. that are devoid of any distinctive character;
- 1.2. that have become the generic designation of products of a particular type;
- 1.3. that are symbols or terms in common use;
- 1.4. that consist exclusively of signs or indications which are used to designate the kind, quality, quantity, properties, intended purpose or value of the goods, or the place, time or manner of their manufacture or sale;
- 1.5. that are the shape of the goods or their packaging which results exclusively or mainly from the nature of the goods themselves or which is necessary to obtain a technical result or which gives substantial value to the goods.

2. The signs or indications referred to in paragraph (1) of this Article may be incorporated in the trademark as unprotected elements, insofar as they do not predominate.

4. Those trademarks may not be registered that consist exclusively of signs or indications which constitute armorial bearings, flags or emblems of States, official names of States, flags, emblems or abbreviated or full names of international intergovernmental organizations, official signs, assay marks or hallmarks indicating control or warranty or decorations or other honorary insignia, or are confusingly similar to such signs or indications. Such signs or indications may be included in the trademark as unprotected elements, subject to the consent of the owner thereof or of the relative competent body.

5. Those signs or indications may not be registered as trademarks:

- 5.1. that are inaccurate or liable to mislead the consumer as to the product or its place of origin or its producer;
- 5.2. that constitute or consist of an indication of origin for wines or spirits which is protected under international treaties to which the Republic of Belarus is party, identifying wines for wines or spirits for spirits not originating in the place indicated by the indication of origin in question;
- 5.3. that are contrary to public order, humanitarian principles or morality

**5. Other Grounds for Refusal of Registration**

1. Those signs or indications may not be registered as trademarks that are identical with or confusingly similar to:

- 1.1. trademarks that are registered or for which an application for registration in the Republic of Belarus has already been filed on behalf of a third party, and which benefit from earlier priority dates, for goods of the same type;
- 1.2. trademarks of third parties that are protected in the Republic of Belarus by virtue of international treaties to which the Republic of Belarus is party for goods of the same type;
- 1.3. trademarks of third parties that are considered to be well known in the Republic of Belarus according to the procedure established by the Patent Authority for goods of any type.

XI. Annexes (tick if necessary)



Reproduction(s) of the presumably conflicting trademark(s) containing a figurative element or having a special graphic representation



List indicating the goods and/or services to which each of the presumably conflicting trademarks is applied

XII. Signature or official seal of the Office  
sending the notification

Head of the Department of Trademarks



**Natalia Shashkova**

Examiner : **Ihona Soltan** (+375 17) 294 81 99

## NATIONAL REGISTRATION No. 49 036

## LIST OF GOODS AND/OR SERVICES

Cl. 16: авторучки; акварели [краски]; альбомы; альманахи; атласы; афиши; банты бумажные; билеты; бланки; формуляры; блокноты [канцелярские товары], в том числе для рисования, черчения; брошюры; буклеты; бумага вощеная; вывески бумажные или картонные; выкройки для изготовления одежды; выкройки для шитья; вымпелы бумажные; календари, в том числе календари отрывные, календари-справочники, открытки поздравительные; газеты; карты географические; гравюры; изображения графические; репродукции графические; работы графические печатные; диаграммы; папки для документов; продукция печатная; эстампы [гравюры]; этикетки, за исключением текстильных; журналы [издания периодические]; закладки для книг; тетради; тетради для рисования; тетради для письма или черчения; бюллетени информационные; товары канцелярские; картины [рисунки] обрамленные или необрамленные; картинки; изделия картонные; книги; записные книжки; книжки-комиксы; конверты [канцелярские товары]; пакеты бумажные; литографии; литографические произведения искусства; рисунки переводные; мешки [конверты, пакеты] для упаковки бумажные или пластмассовые; учебники [пособия]; наклейки самоклеящиеся [канцелярские товары]; обложки [канцелярские товары]; карандаши автоматические; офорты; ленты бумажные; издания периодические; принадлежности письменные; бумага писчая; плакаты; портреты; открытки почтовые; флажки бумажные; проспекты рекламные; журналы регистрационные; карточки канцелярские регистрационные; расписания печатные; транспаранты [канцелярские товары]; трафареты для рисования; фотогравюры; фотографии [отпечатанные]; хромолитографии [олеографии].

Cl. 35: агентства по коммерческой информации; изучение рынка; изучение общественного мнения; организация выставок в коммерческих или рекламных целях; организация торговых ярмарок в коммерческих или рекламных целях; организация подписки на газеты для третьих лиц; демонстрация товаров; исследования в области бизнеса; информация деловая; сведения о деловых операциях; репродуцирование документов; прогнозирование экономическое; запись сообщений; сбор информации в компьютерных базах данных; услуги в области общественных отношений; ведение автоматизированных баз данных; консультации по вопросам организации и управления бизнесом; консультации профессиональные в области бизнеса; систематизация информации в компьютерных базах данных; обработка текста; обзоры печати; обновление рекламных материалов; публикация рекламных текстов; радиореклама; реклама почтой; прокат рекламного времени в средствах массовой информации; агентства рекламные; прокат рекламных материалов; распространение рекламных материалов; составление рекламных рубрик в газете; реклама; реклама интерактивная в компьютерной сети; распространение образцов; реклама почтой; сбор и предоставление статистических данных; реклама телевизионная; услуги фотокопирования.

Cl. 38: услуги абонентской телеграфной службы; информация по вопросам дистанционной связи; почта электронная; связь волоконно-оптическая; связь с использованием компьютерных терминалов; передача сообщений и изображений с использованием компьютера; агентства печати новостей; передача срочных объявлений; радиовещание; связь спутниковая; связь телефонная.

Cl. 41: организация выставок с культурно-просветительной целью; служба новостей; услуги образовательно-воспитательные; организация досуга; развлечения; обеспечение интерактивными электронными публикациями незагружаемыми; обеспечение интерактивное игрой через компьютерную сеть; услуги образовательно-воспитательные, предоставляемые посредством компьютера в режиме он-лайн; услуги по организации досуга, предоставляемые посредством компьютера в режиме он-лайн; обеспечение учебного процесса; инструктаж в области интерактивных и цифровых телевизионных программ; инструктаж в области оптико-волоконного, кабельного и спутникового вещания.

Cl. 42: прокат компьютеров; прокат средств программного обеспечения; техническое обслуживание программного обеспечения; создание и техническое обслуживание веб-сайтов для третьих лиц; размещение компьютерных сайтов [веб-сайтов]; восстановление компьютерных данных; разработка программного обеспечения; модернизация программного обеспечения; преобразование данных и информационных программ [не физическое преобразование]; перенос данных или документов с физического носителя на электронный.

LIST OF GOODS AND/OR SERVICES

Cl. 35: publication of publicity texts.

Cl. 38: distribution (transmission) and transmission of texts, messages, information, sound, images and data; computer aided transmission of messages and images; providing access to chatrooms to allow message sending between computer users; transmission of radio and television programmes, texts, messages, information, sound and images via communication networks and computer networks; distribution of programmes via the Internet; distribution (transmission) and transmission of visual images and information in audio, graphic, data and other forms by means of radio, telecommunications equipment, and electronic and web-based media; provision of access to online discussion forums via the Internet; electronic data transmission by means of computers, communications networks and the Internet; services to provide access to a telecommunications network by means of a computer, telephone or television; provision of access to web-based pay television channels for downloading videos; distribution of television programmes; provision of access to digital music via telecommunications; communications services for providing access to information, texts, sound, images and data via communications networks and computer networks; online and information services, namely the preparation, compilation and transmission of news and audiovisual information of all kinds by means of sound and images; transmission of audiovisual data or images via a global computer network or the Internet; news agencies; information about telecommunication; provision of access to a database server centre; transmission of visual images and information in audio, graphic, data and other forms by means of radio, telecommunications equipment, and electronic and web-based media; transmission of audiovisual data or images via a global computer network or the Internet..

Cl. 41: education; training; entertainment; sporting and cultural activities, entertainer services, amusement parks, rental of video tapes, operation of cinemas, film studios, club services (entertainment and education), organising of competitions (entertainment and education), arranging and conducting of congresses, arranging and conducting of dances, rental of show scenery, discotheque services, radio entertainment, television entertainment, rental of sound recordings, providing on-line electronic publications, not downloadable, rental of cine-films, recreation information, game services offered online via a computer network, publication of books, rental of videotapes, production of radio and television programmes, provision of museum facilities (presentation, exhibitions), variety entertainments, orchestra services, organising of exhibitions for cultural or educational purposes, organising of balls, organising of competitions (entertainment and education), organisation of shows, impresario services, dubbing, film production, theatre productions, production of events, dance, music and theatre events, selecting and compiling prerecorded music for distribution by others, information relating to entertainment, interactive game, entertainment and competition services for cultural or educational purposes, all supplied via a global computer network or the Internet, night clubs, electronic publishing of online periodicals and books, booking of seats for shows, film and music production consultancy, not including business consultancy, production of sound recordings..