



Intellectual
Property
Office

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World Intellectual Property
Organisation (WIPO)
International Bureau
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Switzerland

Your Reference:
International Registration No:
WO0000001209550
Examiner: Claire Woodman
Direct Telephone: +44(0)1633814566
Date: 17 December 2014

Intl Reg No: WO0000001209550
Mark: ENIGMA NATURE
Holder: Gorokhovskaya Tatyana Germanovna
Class(es): 3

**Notification Of A Provisional Total Refusal Of Protection Based On An
Opposition By The United Kingdom Intellectual Property Office In
Accordance With Article 5 Of The Madrid Protocol**

I am writing to inform you that following receipt of an opposition to the above trade mark, it is necessary to issue this formal provisional refusal letter. This provisional refusal covers all of the goods and services of the International Registration.

Please find attached a copy of the TM7 'Notice of Opposition', which includes details of any marks referred to in the statement of case, which was received by the United Kingdom Trade Mark Registry. Copies of these documents have been sent to the holder informing them of this provisional refusal.

If the holder of the International Registration wishes to file a counterstatement, they must complete the form TM8 'Notice of defence and counterstatement', which is available at ipo.gov.uk/tmforms and **return it to this office** within **two months** of the date of this letter. This period cannot be extended, except in the circumstances described below. The holder should note that failure to file a TM8 will result in the provisional refusal being upheld.

If both parties to this dispute wish to negotiate and want to enter a 'cooling off period' then the time for filing the TM8 can be extended for a further seven months by the filing the form TM9c 'Request for a cooling off period, which is available at ipo.gov.uk/tmforms

The TM8 should be received on or before **17 February 2015** unless a cooling off period is entered into by the parties.

The holder of the International Registration must provide us with an address for correspondence in the United Kingdom, another EEA state or the Channel

Islands on a form TM33 'Appointment or change of agent or contact address', which is available at ipo.gov.uk/tmforms within this two month period.

If one is not provided within this time the refusal will be made final.

Claire Woodman

Trade Marks Registry



Intellectual
Property
Office

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.11DEC14 100.00 ACCOUNT 0P000403374

Form TM7

Notice of opposition and statement of grounds

M5-IPO-FAX
10/DEC/2014

Fee ☒ £100

Opposition based on Section 5(1) and/or 5(2) ONLY

☐ £200

Opposition based on, or including, any other grounds

Note: If you wish to oppose under Section 5(1) and/or 5(2) and one or more other grounds, the fee will be £200

Use this form to notify of an opposition to a trade mark application or international registration and to set out the grounds on which you are basing this opposition.

Do not use this form if you wish to file a Fast Track opposition under Section 5(1) and/or 5(2): use Form TM7F.

1. Trade mark number

Number of the trade mark you are opposing. If the opposition concerns an international registration, help us identify the correct trade mark by adding "IR"

IR1209550

2. Full name of applicant/holder

Whose trade mark you are opposing

Gorokhovskaya Tatyana Germanovna

3. Full name of opponent

Person opposing the trade mark

RDPR Limited

Address

If the address is not within the United Kingdom, European Economic Area (EEA – which includes the European Union) or the Channel Islands you must have a representative in one of these regions and complete section 4 below

41 New England Street

New England Quarter

Brighton

United Kingdom

Postcode BN1 4GQ

Email address

Complete if you have no representative and would like us to correspond with you by email

4. Representative name

If you have no representative, go to section 5.

J A Kemp

Address

The address provided in this section must be in the UK, European Economic Area (EEA) or the Channel Islands.

NOTE: We will communicate with the representative if this section has been completed.

14 South Square

Gray's Inn

London

United Kingdom

Postcode WC1R 6JJ


Email address

Complete if you would like us to correspond with you by email

5. Related proceedings If applicable, select location of any related proceedings and enter the case number allocated to the proceedings.	<input type="checkbox"/> IPO Registry	<input type="checkbox"/> UK Courts	<input type="checkbox"/> OHIM
	Number		

6. Opposition notification date If you have informed the applicant/holder of an intention to oppose the trade mark application, designation – enter the date you notified them. [*See Note]	14 Aug 2014
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Note: An opposition launched without giving the applicant or holder a reasonable opportunity to withdraw the application, international designation or amendment may result in the opponent being ineligible for an award of costs.

7. Declaration	I believe that the facts stated in this form and the attached statement of grounds are true.
Signature	
Name (BLOCK CAPITALS)	J. A. KEMP
Date	10/12/2014

8. Your reference Complete if you would like us to quote this in communications with you, otherwise leave blank.	Y40294GB BRM
Contact details Name, daytime telephone number of the person to contact in case of query.	Ben Mooneapillay 01865 406 100
Number of sheets attached to this form	4

Checklist

Please make sure you have remembered to:

- ☐ Sign and date the form
- ☒ Complete fee sheet (Form FS2)
- ☐ Enclose the fee and fee sheet. Make cheques payable to Intellectual Property Office.

Where to send

Intellectual Property Office
Trade Marks Registry
Concept House
Cardiff Road
Newport
South Wales
NP10 8QQ

Please tick on what grounds you are opposing the trade mark and continue to the relevant section(s)

☒

Opposition is based on Sections 5(1) or 5(2): The trade mark is either identical or similar to an earlier trade mark and is to be registered for identical and/or similar goods and services.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier trade mark.

> COMPLETE SECTION A

☐

Opposition is based on Section 5(3): The trade mark is either identical or similar to an earlier trade mark which has a reputation. Using the later mark would take unfair advantage of, or be detrimental to, the distinctive character or reputation of the earlier mark.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier trade mark. Ticking this box means that the total fee for this form is £200.

> COMPLETE SECTION B

☐

Opposition is based on Section 5(4)(a): Where the use of the applicant's trade mark would be contrary to law, in particular, the law of passing off.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier right. Ticking this box means that the total fee for this form is £200.

> COMPLETE SECTION C

☐

Opposition is based on Section 3: The trade mark is excluded from registration because it describes the goods/services, or is not distinctive, or consists of signs that are customary within the trade, or the application was made in bad faith.

Note: Ticking this box means that the total fee for this form is £200.

> COMPLETE SECTION D

☐

Opposition is based on other grounds.

Note: Ticking this box means that the total fee for this form is £200.

> COMPLETE SECTION E

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SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark.
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number

Your trade mark

UK00002602684

Type of mark

Please tick

<input checked="" type="checkbox"/>	UK	<input type="checkbox"/>	Community	<input type="checkbox"/>	International
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Representation of your trade mark

Enter your trade mark in the space provided – use a continuation sheet if necessary.

ENIGMA

TM7

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input type="checkbox"/>	All goods and services
<input checked="" type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)
Class 3: Perfume; fine fragrance.	

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?

☐ Yes

☒ No > GO TO Q4

Q3. Has the trade mark been used?

☐ Yes

☐ No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

> GO TO Q4.

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Q3b. Please state any proper reasons for non-use.

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DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1 or Q3a (whichever is applicable)?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and e.g. why you consider the respective marks or goods and/or services to be similar.

The mark applied for reproduces the earlier mark's distinctive ENIGMA element in its entirety. Consequently, as the mark applied for differs only insofar as the descriptive element 'NATURE' is concerned (describing natural or earthy qualities of the goods), the marks are to be considered highly similar.

In relation to the opposed goods, having regard to their nature, intended purposes, the channels of trade through which it is likely that they would be marketed and/or sold and the likely end users of these products, the Opponent contends that they are identical or highly similar to the Class 3 goods protected by the Opponent's earlier registration.

Having regard to the now well-established principle of interdependence as recognised by the Court of Justice in 'Canon' (Case C-39/97), a lesser degree of similarity between the marks may be offset by a greater degree of similarity between the relevant goods, and vice versa.

Taking the above into account, the Opponent submits that the relevant public would be confused as to the commercial origin of the products offered under the mark applied for and therefore requests that the subject application be refused. The Opponent requests that an award of costs be made in its favour.

TM7

J A • KEMP

BY FAX

UK Intellectual Property Office
Concept House
Cardiff Road
Newport NP10 8QQ

10 December 2014

M5-IPO-FAX
10 / DEC / 2014

Dear Sirs

Opposition to International Trade Mark Registration No. 1209550 ENIGMA NATURE
designation of United Kingdom in Class 3 in the name of Tatyana Germanovna
Gorokhovskaya and Opposition thereto by RDPR Limited
Our Ref: Y40294GB BRM/kjb

Please find attached Forms TM7 and FS2 in support of the above opposition.

Yours faithfully



J A KEMP

PATENT ATTORNEYS • TRADE MARK ATTORNEYS
LONDON • OXFORD • MUNICH

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mail@jakemp.com www.jakemp.com

A list of our partners is available at our principal place of business at the address above. Regulated by IPREG



Case details for trade mark UK00002602684

Trade mark

Trade mark: ENIGMA

Status: Registered

Relevant dates

Filing date: 28 November 2011

Date of entry in register: 02 March 2012

Renewal date: 28 November 2021

List of goods

Class3: Perfume; fine fragrance.

Class4: Perfumed candles; scented candles.

Name and Address details

Owner(s) name: RDPR Limited

41 New England Street, New England
Quarter, Brighton, United Kingdom,
BN1 4GQ

Country of Incorporation: United Kingdom

[View owner's other trade marks](#)

IPO representative name: JA Kemp

14 South Square, Gray's Inn, London,
United Kingdom, WC1R 5JJ

Publication details

First advert:

Journal : 6919 Date of publication :
23 December 2011

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