

MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATIONS OF MARKS AND
PROTOCOL RELATING TO THAT AGREEMENT

PROVISIONAL REFUSAL OF PROTECTION

Notified to the International Bureau of the World Intellectual Property Organization(WIPO) in
accordance with Rule 17(1) of the Common Regulations under the Madrid Agreement and Protocol

<p>I. Office Making the notification:</p> <p>National Intellectual Property Center of Georgia "SAKPATENTI" 5, Antioch Str., 3300 Mtskheta GEORGIA</p>
<p>II. Number of the International Registration: 1232192</p> <p>International Mark which is the subject of the statement:</p> <p style="text-align: center;">ENIGMA BY SIBERIAN HEALTH</p>
<p>III. Name of the holder (or other indication enabling the identity of the international registration to be confirmed): Tatyana Germanovna Gorokhovskaya; Krasnyi prospekt, d. 49, kv. 58, RU-630091 Novosibirsk , Russian Federation</p>
<p>IV. [X] Provisional refusal based on an ex officio examination</p> <p><input type="checkbox"/> Provisional refusal based on an opposition</p> <p style="padding-left: 40px;">The name and address of the opponent:</p> <p><input type="checkbox"/> Provisional refusal based on both an ex officio examination</p> <p style="padding-left: 40px;">and an opposition: The name and address of the opponent:</p>
<p>V. [X] Provisional refusal for all the goods and/or services</p> <p><input type="checkbox"/> Provisional refusal for some of the goods and/or services:</p>
<p>VI. Grounds for refusal: The trademark is semantically similar and liable to be confused with the international trademark "СИБИРСКОЕ ЗДОРОВЬЕ с Евгенией и Татьяной традиции будущего", "СИБИРСКОЕ ЗДОРОВЬЕ", "SIBERIAN HEALTH" registered 16.08.2004, 10.06.2011, 10.06.2011 under the number 835396, 1084510, 1084511 for the goods in class 3.</p>

VII. Information relating to earlier mark:

- i. Filing date and number, and, if any, priority date:
- ii. Registration date and number (if available):
- iii. Name and address of the owner:
- iv. Reproduction of the mark:
- v. (v) List of all or relevant goods and/or services:

VIII. Corresponding essential provisions of the applicable law: Article 5(c).

IX. Information relating to subsequent procedure:

(i) Time limit for requesting review or appeal: **This statement can be appealed at Sakpatenti Chamber of Appeals no later than 3 months or Mtskheta City Court no later than 1 month from the date of its publication in the WIPO Gazette of International Marks.**

(ii) Authority to which such request for review or appeal should be made: **This statement can be appealed at Sakpatenti Chamber of Appeals or Mtskheta City Court.**

(iii) Indications concerning the appointment of a representative:

The request may be filed through the intermediary of a patent attorney of Georgia or if the party to an administrative proceeding is not domiciled in Georgia, he/she shall appoint a representative with a registered address in Georgia

X. Date of notification of provisional refusal: **24/11/2015**

XI. Signature or official seal of the Office sending the statement:

Head of the Department

Irakli Kasradze

IX. Extract from the Trademark Law of Georgia

Article 3. TRADEMARK

1. A trademark is a sign or combination of signs that can be represented graphically and is capable of distinguishing the goods or services or both (hereinafter referred to as "goods") of one undertaking from those of other undertakings.
2. The sign may be a word or words, including proper names, letters, figures, sounds, a design or a three-dimensional figure, including the shape of goods or their wrapping and also other packaging, including colors or combination of colors.
3. The trademark is protected by registration at «Sakpatenti» or by virtue of international agreement.
4. Well-known trademarks in Georgia are protected without registration, under Article 6^{bis} of the Paris Convention. The trademark is recognized as well-known by the Chamber of Appeals of «Sakpatenti» or by the court, in its competence, upon the request of an interested person.

Article 4. ABSOLUTE GROUNDS FOR REFUSAL OF REGISTRATION

1. A sign, or combination of signs shall not be registered as a trademark where it:
 - (a) does not comply with the requirements of Article 3 (1) of this Law;
 - (b) represents a single non-stylized (standard) letter or figure, or a single colour taken separately;
 - (c) is not capable of distinguishing the relevant goods;
 - (d) is descriptive in respect of the goods for which its registration is requested, consists exclusively of the kind, quality, quantity, feature, value, intended purpose, geographical origin, place of sale, time or other characteristics of the goods or can be regarded as such;
 - (e) is widely used as a generic term for the particular type of goods;
 - (f) represents a widely established trade term or sign, characteristic of goods, for which registration is sought;
 - (g) insults or is contrary to national dignity, religious sentiment and traditions and moral standards;
 - (h) is likely to deceive the public (as to the feature, quality, geographical origin or other characteristics of the goods);
 - (i) completely or in any of its constituent elements coincides with the national emblems or the flags, emblem or full or abbreviated names of foreign states; the emblems of intergovernmental or other international organizations or their abbreviated or full names; official control, warranty and test hallmarks, signs (including certification marks of goods) seals, orders and medals; the official or historical names, emblems and State flags of the constituent parts of Georgia; the banknotes of Georgia or the imitation of the foregoing; such a sign may be included in a trademark, as a feature not qualifying for protection, if the permission of the Ministry of Culture or the holder has been obtained.
2. A three-dimensional sign shall not be registered as a trademark, where its shape:
 - (a) is established exclusively by the nature of the goods;
 - (b) is necessary for a technical result to be achieved.
3. The provisions of paragraph 1(c), (d), (e), (f), and (h) above shall not apply if, before a decision is taken on its registration, a trademark has become distinctive through use in the course of trade in relation to the goods specified in the application.

Article 5. RELATIVE GROUNDS FOR REFUSAL OF REGISTRATION

A trademark shall not be registered if it:

- (a) is identical to another trademark registered for the same goods;
- (b) is identical to the trademark of a third party and the goods are so similar as to create a risk of confusion between the marks, including confusion based on association;
- (c) is similar to the trademark of a third party and the goods are identical or so similar as to create a risk of confusion between the marks, including confusion based on association;
- (d) is identical or similar to a trademark well known in Georgia, existing before filing the application, so that there is a risk of confusion with it, including confusion based on association; this rule shall apply even where the lists of goods are different;
- (e) is identical or so similar to an appellation of origin or geographical indication protected in Georgia that there is a risk of confusion with it, including confusion based on association and the registration of trademark is requested for the identical or similar goods, or using such a trademark will result in using the reputation of the protected appellation of origin or geographical indication. This provision shall not apply if an appellation of origin or geographical indication is involved as a feature not qualifying for protection in the trademark of a person entitled to use it.
- (f) is identical to an industrial design protected in Georgia except where registration of the trademark is sought by the holder of the exclusive rights in the industrial design;
- (g) is identical or similar to registered trademark a third party enjoying good reputation in Georgia, and if the use of that trademark creates unfair advantages for its applicant or damages the reputation of the protected trademark; this rule shall apply where there are different lists of goods;
- (h) includes names, pseudonyms, facsimiles, portraits of persons famous in Georgia without the consent of these persons or their legatees, and if they belong to the history and culture of Georgia without the permission of the Ministry of Culture, Monuments Protection and Sport of Georgia;
- (i) includes the names of historical monuments of Georgia or of reproductions thereof without the permission of the Ministry of Culture, Monuments Protection and Sport of Georgia.

835396 -

151

Date of the registration

16.08.2004

180

Expected expiration date of the registration/renewal

16.08.2024

270

Language of the application

French

732

Name and address of the holder of the registration

SIBERIAN HEALTH s.r.o.

Blanická 590/3,

CZ-120 00 Vinohrady, Praha 2 (CZ)

811

Contracting State of which the holder is a national

CZ

841

State of which the holder is a national

CZ

842

Legal nature of the holder (legal entity) and State, and, where applicable, territory within that State where the legal entity is organized

limited liability company

740

Name and address of the representative

O.V. Shterz

P.O. box 242

RU-630132 Novosibirsk (RU)

770

Name and address of the previous holder

Obhtchestvo s ogranichennoi otvetstvennostiou "Korporatsia "Sibirskoe zdorovie"

ul. Lenina, 48

Novosibirsk (RU)

540

Mark



Т Р А Д И Ц И И

531

International Classification of the Figurative Elements of Marks (Vienna Classification) - VCL(5)

26.04.02 ; 26.04.09 ; 28.05.00 ; 29.01.03 ; 29.01.04 ; 29.01.06

591

Information concerning colors claimed

White, green, light green and blue.

Blanc, vert, vert clair et bleu.

Blanco, verde, verde claro y azul.

561

Transliteration of the mark

SIBIRSKOE ZDOROVIE, KORPORAZIIA, S EVGUENIEM I TATIANOI, TRADIZII BUDUCHTCHEGO.

566

Translation of the mark or of words contained in the mark

SIBERIAN HEALTH, CORPORATION, TRADITIONS OF THE FUTURE WITH EVGUENIY AND TATIANA

526

Disclaimer

CORPORATION.

511

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

03

Adhesives for cosmetic purposes; aromatics (essential oils); astringents for cosmetic purposes; cosmetic creams; cosmetics; cosmetic preparations for eyelashes; eyebrow cosmetics; greases for cosmetic purposes; oils for perfumes; beauty masks; potpourris; make-up powder; cosmetic preparations for slimming purposes; cosmetic preparations for baths; cosmetic preparations for skin care; toiletries; perfumery; nail care preparations; soap; tissues impregnated with cosmetic lotions; shampoos; cosmetic dyes.

05

Dietetic foods adapted for medical purposes; food for babies; antiseptics; bath preparations, medicated; balms for medical purposes; biocides; dietetic beverages adapted for medical purposes; confectionery, medicated; mud for baths, nutritional additives for medical purposes; depuratives; disinfectants for hygiene purposes; digestives for pharmaceutical purposes; germicides; medicinal herbs; medicinal infusions; lactose [milk sugar]; albuminous milk; bacterial preparations for medical or veterinary use; biological preparations for medical purposes; biological preparations for veterinary purposes; vitamin preparations; anti-uric preparations; tonics (medicines); serums; sanitary towels; dietetic substances adapted for medical use; mineral food-supplements; herbal teas.

16

Albums; almanacs; pamphlets; calendars; note books; postcards; cardboard; cardboard articles; catalogues; newsletters; inkstands; signboards of paper or cardboard; labels, not of textile; flags of paper; index cards (stationery); forms, printed; writing materials; school supplies; pictures; printed matter; comic books; booklets; books; manuals; teaching materials [except apparatus]; photographs; prospectuses; printed publications; graphic representations; graphic reproductions; magazines (periodicals); bags (envelopes, pouches) for packaging (made of paper or plastic); stencils, tablecloths of paper; tickets.

29

Albumen for food; milk beverages, milk predominating; caviar; game, not live; crayfish, not live; meat extracts; liver; cheese; jellies for food; edible fats; frozen fruits; fruit, preserved; crystallized fruits; edible oils, kephir; kumys [kumyss]; milk; vegetables, preserved; vegetables, cooked; margarine; fatty substances for the manufacture of edible fats; foods prepared from fish; eggs; fish, preserved; milk products; fish, not live; sausages; tripe; tofu; meat; poultry, not live; yogurt.

32

Non-alcoholic beverages; non-alcoholic fruit juice beverages; waters (beverages); non-alcoholic fruit extracts; fruit juices; vegetable juices (beverages); fruit nectars, non-alcoholic; preparations for making beverages.

822

Basic registration

RU, 21.05.2002, 212760

832

Designation(s) under the Madrid Protocol

EE - GE - LT - UZ

1084510 -

151

Date of the registration

10.06.2011

180

Expected expiration date of the registration/renewal

10.06.2021

270

Language of the application

French

732

Name and address of the holder of the registration

SIBERIAN HEALTH s.r.o.

Blanická 590/3,

CZ-120 00 Vinohrady, Praha 2 (CZ)

811

Contracting State of which the holder is a national

CZ

841

State of which the holder is a national

CZ

842

Legal nature of the holder (legal entity) and State, and, where applicable, territory within that State where the legal entity is organized

limited liability company

740

Name and address of the representative

O.V. Shterz

P O. box 242

RU-630132 Novosibirsk (RU)

770

Name and address of the previous holder

Obshchestvo s ogranichennoi otvetstvennostiou "Korporatsia "Sibirskoe zdorovie"

ul. Lenina, 48, Novosibirsk, (RU)

540

Mark

СИБИРСКОЕ ЗДОРОВЬЕ

531

International Classification of the Figurative Elements of Marks (Vienna Classification) - VCL(6)

28.05.00

561

Transliteration of the mark

Sibirskoe zdorovie.

566

Translation of the mark or of words contained in the mark

Siberian health.

511

International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification) - NCL(9)

03

Cosmetic creams; cosmetics; dentifrices; oils for cosmetic purposes; cleansing milk for toilet purposes; lotions for cosmetic purposes; cosmetic kits; pomades for cosmetic purposes; potpourris; cosmetic preparations for baths; sunscreen preparations; cosmetic preparations for skin care; perfumery; toiletries; soap; shampoos; tissues impregnated with cosmetic lotions.

05

Albuminous foodstuffs for medical purposes; dietetic foods adapted for medical purposes; food for babies; dietetic beverages adapted for medical purposes; confectionery, medicated; nutritional additives for medical purposes; lacteal flour for babies; hematogen; medicinal herbs; cod liver oil; albuminous preparations for medical purposes; biological preparations for medical purposes; preparations to facilitate teething; vitamin preparations; dietetic substances adapted for medical use; mineral food-supplements.

16

Stationery; pamphlets; note books; inkstands; writing materials; printed matter; newspapers; books; booklets; teaching materials [except apparatus]; credit card imprinters, non-electric; bags [envelopes, pouches] of paper or plastics, for packaging.

29

Albumen for food; broth; caviar; mushrooms, preserved; broth concentrates; jams; fruits, tinned; vegetables, tinned; fish, tinned; meat, tinned; crustaceans, not live; weed extracts for food; meat extracts; potato flakes; cheese; frozen fruits; fruit, preserved; crystallized fruits; fruit, stewed; jellies for food; fruit jellies; game, not live; edible fats; edible oils; vegetable juices for cooking; milk; vegetables, preserved; vegetables, cooked; vegetables, dried; marmalade; fatty substances for the manufacture of edible fats; fat-containing mixtures for bread slices; nuts, prepared; eggs; fish, not live; salted fish; potato chips; soups; milk products; fruit pulp; raisins; fruit salads; vegetable salads; sausages; tofu; fruit chips; meat; poultry, not live; fruit peel.

32

Non-alcoholic beverages; whey beverages; non-alcoholic fruit juice beverages; cocktails, non-alcoholic; waters (beverages); fruit juices; vegetable juices (beverages); lemonades; fruit nectars, non-alcoholic.

822

Basic registration

RU, 06.06.2008, 352060

832

Designation(s) under the Madrid Protocol

EE - GE - LT - UZ

1084511 - SIBERIAN HEALTH

151

Date of the registration

10.06.2011

180

Expected expiration date of the registration/renewal

10.06 2021

270

Language of the application

French

732

Name and address of the holder of the registration

SIBERIAN HEALTH s.r.o.

Blanická 590/3,

CZ-120 00 Vinohrady, Praha 2 (CZ)

811

Contracting State of which the holder is a national

CZ

841

State of which the holder is a national

CZ

842

Legal nature of the holder (legal entity) and State, and, where applicable, territory within that State where the legal entity is organized

limited liability company

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Name and address of the representative

O.V. Shterz

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RU-630132 Novosibirsk (RU)

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Name and address of the previous holder

Obshchestvo s ogranichennoi otvetstvennostiou "Korporatsia "Sibirskoe zdorovie"

ul. Lenina, 48, Novosibirsk, (RU)

540

Mark

SIBERIAN HEALTH

541

Reproduction of the mark where the mark is represented in standard characters

566

Translation of the mark or of words contained in the mark

sant  sib rienne

511

International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification) - NCL(9)

03

Cosmetic creams; cosmetics; dentifrices; oils for cosmetic purposes; cleansing milk for toilet purposes; lotions for cosmetic purposes; cosmetic kits; pomades for cosmetic purposes; potpourris; cosmetic preparations for baths; sunscreen preparations; perfumery; toiletries; cosmetic preparations for skin care; soap; tissues impregnated with cosmetic lotions; shampoos.

05

Albuminous foodstuffs for medical purposes; dietetic foods adapted for medical purposes; food for babies; dietetic beverages adapted for medical purposes; confectionery, medicated; nutritional additives for medical purposes; lacteal flour for babies; hematogen; cod liver oil; medicinal herbs; albuminous preparations for medical purposes; biological preparations for medical purposes; vitamin preparations; preparations to facilitate teething; dietetic substances adapted for medical use; mineral food-supplements.

16

Stationery; pamphlets; note books; inkstands; writing materials; printed matter; newspapers; books; booklets; teaching materials [except apparatus]; credit card imprinters, non-electric; bags [envelopes, pouches] of paper or plastics, for packaging.

29

Albumen for food; broth; caviar; mushrooms, preserved; broth concentrates; jams; fruits, tinned; vegetables, tinned; fish, tinned; meat, tinned; crustaceans, not live; weed extracts for food; meat extracts; potato flakes; cheese: frozen fruits; fruit, preserved; crystallized fruits; fruit, stewed; jellies for food; fruit jellies; game, not live; edible fats; edible oils; vegetable juices for cooking; milk; vegetables, preserved; vegetables, cooked; vegetables, dried; marmalade; fatty substances for the manufacture of edible fats; fat-containing mixtures for bread slices; nuts, prepared; eggs; fish, not live; salted fish; potato chips; soups; milk products; fruit pulp; raisins; fruit salads; vegetable salads; sausages; tofu; fruit chips; meat; poultry, not live.

32

Whey beverages; non-alcoholic fruit juice beverages; non-alcoholic beverages; waters (beverages); cocktails, non-alcoholic; fruit juices; vegetable juices (beverages); lemonades.

822

Basic registration

RU, 04.05.2006, 306133

832

Designation(s) under the Madrid Protocol

EE - GB - GE - GR - KR - LT - MX - TR - US - UZ