

Notification of provisional refusal of protection based on an opposition pursuant to Article 5 of the Madrid Protocol and Rule 17(1) and (2) of the Common Regulations under the Madrid Agreement and Protocol and to Rule 115 EUTMIR

Alicante, 22/07/2016

International Registration No: **1265934**
Date of notification to EUIPO: **24-09-2015**
Trade mark: **FLOW**
Holder: **Scapa Belgium, naamloze vennootschap
Terbekehofdreef 75
B-2610 Wilrijk**
Opposition number: **B 002723032**

Protection of the abovementioned mark is provisionally refused for the European Union.

The provisional refusal is based on the fact that an opposition has been filed against the international registration.

I. The grounds for the opposition are as follows:

Conflict with an earlier mark because of identity likelihood of confusion (Article 8(1)(b) EUTMR);

II. Name and address of the opposing party:
**PERNOD RICARD ESPAÑA, S.A.
Avenida Ortega y Gasset nº 201
E-29006 Málaga
ESPAÑA**

III. The opposition is based on a mark which was the subject of an application or registration.

- type of mark : **Spanish national trade mark registration.**
- filing date, registration date and, if applicable, priority date: **11/06/2014;
03/11/2014.**
- filing number and, if different, registration number: **351293.**
- reproduction of the mark: (see annex)

- list of goods and services on which the opposition is based: (see annex)

The opposition is based on more than one earlier right: (see annex)

IV. The provisional refusal relates to

Only to the following goods and services covered by the designation of the European Union
Cl. 33 Alcoholic beverages (except beers); spirits and liquors.

V. The EUIPO will notify the opposition separately to the holder of the international registration, including all evidence on which it is based, pursuant to Rule 18(1) EUTMIR. The EUIPO will set time limits for the holder. The notification will open an (extendable) cooling-off period of two months and a further period of two months for the opponent to substantiate the opposition. The notification will set a time limit of, in principle, six months for the holder of the international registration to submit observations.

DUBOIS LUKOWIAK Laurence

Annex: Notice of opposition, 11 pages.

Date of document (dd/mm/yyyy)	Number of pages (including current page)
27/06/2016	3

Reference

Your reference	OCE-9316
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Opposition proceedings

Language of proceedings	EN (English)
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Opponent(s)

Opponent number	1	Opponent EUIPO ID\	287360
Type of opponent	Legal entity		
Name of organization	PERNOD RICARD ESPAÑA, S.A.		
Nationality	Spain		
Street name & house No	Avenida Ortega y Gasset n° 201		
City/Town	Málaga		
Postal code	29006		
Country	Spain		
Postal address			
Telephone number			
Fax number			
Email address			

Representative(s)

Representative number	1	EUIPO Representative ID number\	11849
Representative type	Association		
Name of organization	ELZABURU, S.L.P.		
Street name & house no	Miguel Angel, 21		
City/Town	Madrid		
Postal code	28010		
Country	Spain		
Postal address	ELZABURU, S.L.P. Miguel Angel, 21E-28010 MadridESPAÑA		
Telephone number	917009400		
Fax number	913193810		
Email address	elzaburu@elzaburu.es		

Challenged application

Number	1265934
Trade mark origin	International registration
Application date	10/08/2015
Publication date	25/09/2015
Application representation	FLOW
Name of the applicant	Scapa Belgium, naamloze vennootschap
First language	EN (English) Selected
Second language	FR (French)

List of goods & services - Against parts of the goods and services

Class	Goods & services
33	Alcoholic beverages (except beers); spirits and liquors.

Basis of the opposition #1 - Trade mark

	Trade mark number	3515293
Trade mark origin	National trade mark	
Country	Spain	
Trade mark name	FLOWT	
Application date	11/06/2014	
Registration number	3515293	
Registration date	03/11/2014	
Type of the representation of the earlier right	Word	
Word element(s) of the earlier right	FLOWT	
Character set of the representation of the mark	English	
Reputation claimed	No	

List of goods & services - Based on parts of the goods and services

Class	Goods & services
33	Gin.

Entitlement

Entitlement of opponent	Owner/Co-owner/Licencee
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Grounds for the opposition

Grounds #1	Article 8(1)(b) EUTMR - there exists a likelihood of confusion on the part of the public.
Evidence	TITULO.PDF (251Kb)
Translation	FLOWT_spain_3515293.pdf (61Kb)

Basis of the opposition #2 - Trade mark

	Trade mark number	3515295
Trade mark origin	National trade mark	
Country	Spain	
Trade mark name	FLOOWT	
Application date	11/06/2014	
Registration number	3515295	
Registration date	03/11/2014	
Type of the representation of the earlier right	Word	
Word element(s) of the earlier right	FLOOWT	
Character set of the representation of the mark	English	
Reputation claimed	No	

List of goods & services - Based on parts of the goods and services

Class	Goods & services
33	Gin.

Entitlement

Entitlement of opponent	Owner/Co-owner/Licencee
-------------------------	-------------------------

Grounds for the opposition

Grounds #1	Article 8(1)(b) EUTMR - there exists a likelihood of confusion on the part of the public.
Evidence	TITULO2.PDF (251Kb)
Translation	FLOOWT_spain_3515295.pdf (61Kb)

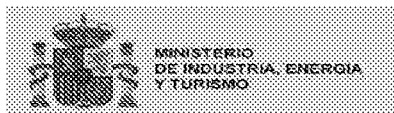
Payment of fees

Pay by	Current account with the EUIPO
Opposition fee	320 EUR
Account No.	000005

Signature

First name	Surname	Capacity of the signatory	Position
Jose Ignacio	San Martín Santamaría	The EUIPO professional representative	

ENGLISH TRANSLATION - SPANISH ORIGINAL



Official seal: Ministry of Industry,
Energy, and Tourism



Spanish Patent and Trademark
Office logo

TRADEMARK

CERTIFICATE OF REGISTRATION

The present certificate is hereby issued for the trademark whose identifying particulars are set out below attesting to the fact that the said mark complies with the provisions of the Trademark Act, Act No. 17/2001 of 7 December 2001, currently in force.

Pursuant to the provisions of the said Trademark Act, trademark registrations afford their owners the exclusive right to use the mark in trade. Without prejudice to third parties, this registration has been granted for ten years from the date of filing of the application and may be renewed indefinitely for additional ten-year periods. Trademark registrations that are not duly renewed in the manner and within the time limits stipulated by law will be cancelled.

Trademark No. 3.515.295

TRADEMARK PROPRIETOR: *Pernod Ricard España, S.A.*

SIGN:

FLOOWT

TYPE OF SIGN: **Word mark**

COLOURS CLAIMED:

DESCRIPTION AND/OR DISCLAIMERS:

FILING DATE OF APPLICATION:

11 June 2014

REGISTRATION DATE:

3 November 2014

PRIORITIES CLAIMED: COUNTRY, APPLICATION NO., DATE:

CONVERSION/TRANSFORMATION TO SPANISH TRADEMARK

FILING DATE AT HOME OFFICE:

TYPE AND NUMBER OF HOME MARK:

SENIORITY DATE CLAIMED:

SENIORITY FROM SPANISH TRADEMARK NO.:



Official seal: Ministry of Industry,
Energy and Tourism



Spanish Patent and Trademark
Office logo

Trademark No. 3.515.295

CLASS:	GOODS OR SERVICES COVERED:
33	Gin.

The present certificate consists of: 2 pages

Madrid, 3 November
The Director
Department of Distinctive Signs

(Official Spanish Patent and Trademark Office stamp)



TÍTULO DE REGISTRO DE MARCA

Cumplidas las disposiciones establecidas en la vigente Ley 17/2001, de 7 de diciembre, de Marcas, se expide el presente título de registro de la marca que más abajo se identifica.

Conforme a la citada Ley de Marcas, el registro de la marca, confiere a su titular el derecho exclusivo a utilizarla en el tráfico económico. El registro ha quedado otorgado, sin perjuicio de tercero, por diez años, contados desde la fecha de presentación de la solicitud, y podrá renovarse indefinidamente por periodos ulteriores de diez años. De no efectuarse la renovación en la forma y plazos previstos legalmente, el registro de la marca será caducado.

Marca Nº.3.515.295

TITULAR DE LA MARCA: PERNOD RICARD ESPAÑA, S.A.		
DISTINTIVO	TIPO DISTINTIVO: DENOMINATIVO	
	COLORES REIVINDICADOS	
	DESCRIPCIÓN Y/O INDICACIÓN DE ELEMENTOS NO REIVINDICADOS EN EXCLUSIVA:	
FLOOWT		
FECHA PRESENTACIÓN SOLICITUD 11 de junio de 2.014	FECHA CONCESIÓN REGISTRO: 3 de noviembre de 2.014	PRIORIDADES REIVINDICADAS: PAÍS, NÚMERO, SOLICITUD, FECHA
MARCA ESPAÑOLA POR TRANSFORMACIÓN		
FECHA PRESENTACIÓN EN OFICINA DE ORIGEN	MODALIDAD MARCA DE ORIGEN Y NÚMERO:	
FECHA ANTIGÜEDAD REIVINDICADA:	ANTIGÜEDAD DE LA MARCA ESPAÑOLA Nº.:	



MINISTERIO
DE INDUSTRIA, ENERGÍA
Y TURISMO



Oficina Española
de Patentes y Marcas

Marca N°. 3.515.295

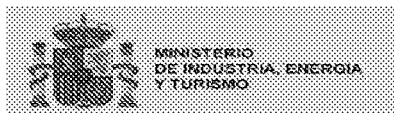
CLASE	PRODUCTOS O SERVICIOS PROTEGIDOS
33	GINEBRA.

El presente título, consta de: 2 páginas

Madrid, 3 de noviembre de
El Director del departamento
de Signos Distintivos



ENGLISH TRANSLATION - SPANISH ORIGINAL



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Trademark No. 3.515.293

TRADEMARK PROPRIETOR: *Pernod Ricard España, S.A.*

SIGN:

FLOWT

TYPE OF SIGN: **Word mark**

COLOURS CLAIMED:

DESCRIPTION AND/OR DISCLAIMERS:

FILING DATE OF APPLICATION:

11 June 2014

REGISTRATION DATE:

3 November 2014

PRIORITIES CLAIMED: COUNTRY, APPLICATION NO., DATE:

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FILING DATE AT HOME OFFICE:

TYPE AND NUMBER OF HOME MARK:

SENIORITY DATE CLAIMED:

SENIORITY FROM SPANISH TRADEMARK NO.:



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Office logo

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FECHA ANTIGÜEDAD REIVINDICADA:	ANTIGÜEDAD DE LA MARCA ESPAÑOLA Nº.:	



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DE INDUSTRIA, ENERGÍA
Y TURISMO



Oficina Española
de Patentes y Marcas

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CLASE	PRODUCTOS O SERVICIOS PROTEGIDOS
33	GINEBRA.

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