

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 002717315**

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 likelihood of confusion (Article 8(1)(b) EUTMR);

II. Name and address of the opposing party:

**NATARAJA, S.L.
CALLE MENDEZ NUÑEZ, 17
E-28014 MADRID
ESPAÑA**

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

- type of mark : **Spanish trade mark registration.**
- filing date, registration date and, if applicable, priority date: **27/12/2013;
09/04/2014.**
- filing number and, if different, registration number: **3104745.**
- reproduction of the mark: (see annex)

- list of goods and services on which the opposition is based: (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.

Cl. 43 Services for providing food and drink.

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, 5 pages.

Date of document (dd/mm/yyyy)	Number of pages (including current page)
14/06/2016	2

Reference

Your reference	OMUE/OT41326
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Opposition proceedings

Language of proceedings	EN (English)
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Opponent(s)

Opponent number	1	Opponent EUIPO ID\	To be assigned
Type of opponent	Legal entity		
Name of organization	NATARAJA, S.L.		
Nationality	Spain		
Street name & house No	CALLE MENDEZ NUÑEZ, 17		
City/Town	MADRID		
Postal code	28014		
Country	Spain		
Postal address			
Telephone number			
Fax number			
Email address			

Representative(s)

Representative number	1	EUIPO Representative ID number\	13708
Representative type	Association		
Name of organization	ISERN PATENTES Y MARCAS, S.L.		
Street name & house no	Avenida Diagonal, 463 bis, 2° piso		
City/Town	Barcelona		
Postal code	08036		
Country	Spain		
Postal address	ISERN PATENTES Y MARCAS, S.L. Avenida Diagonal, 463 bis, 2° piso E-08036 Barcelona ESPAÑA		
Telephone number	933637900		
Fax number	933637902		
Email address	info@isern.com		

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.
43	Services for providing food and drink.

Basis of the opposition #1 - Trade mark

	Trade mark number	3104745
Trade mark origin	National trade mark	
Country	Spain	
Trade mark name	FLOW SEA NATURAL	
Application date	27/12/2013	
Registration number	3104745	
Registration date	09/04/2014	
Type of the representation of the earlier right	Word	
Word element(s) of the earlier right	FLOW SEA NATURAL	
Character set of the representation of the mark	Spanish	
Reputation claimed	No	

List of goods & services - Based on all goods and services

Class	Goods & services
33	WINES.

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.
Explanation of grounds and other remarks	Risk of confusion due to the strong phonetic, graphic and conceptual similarities between the confronted marks, and the identity and similarity of goods respectively identified by said marks
Evidence	ES3104745.pdf (34Kb)
Translation	ES3104745_TRAD.pdf (11Kb)

Payment of fees

Pay by	Current account with the EUIPO
Opposition fee	320 EUR
Account No.	000003

Signature

First name	Surname	Capacity of the signatory	Position
JORGE	ISERN JARA	The EUIPO professional representative	

Resultado de la consulta

Modalidad: M Número: 3104745(9) Bis: Tipo: Fecha: 14/06/2016 12:26:02

MARCA PRODUCTOS/SERVICIOS

FECHA PRESENTACION SOLICITUD.....: 27/12/2013 A LAS 14:07 EN INTERNET

FECHA PRESENTACION SOLICITUD OTORGADA.: 27/12/2013

TIPO.....: DENOMINATIVA

DENOMINACION.....:

 FLOW SEA NATURAL

SOLICITANTE/TITULAR...: NATARAJA S.L.

DOMICILIO.....: CALLE MENDEZ NUÑEZ, 17

LOCALIDAD.....: MADRID

PROVINCIA/COD.POSTAL...: 28014 MADRID

REPRESENTANTE...: 0733 (1) Jorge Isern Jara

DOMICILIO.....: Avenida.Diagonal,463 Bis.2

LOCALIDAD.....: Barcelona

PROVINCIA/CODIGO: 08036 BARCELONA

----- CLASES Y PRODUCTOS/SERVICIOS O ACTIVIDADES SOLICITADOS -----

33 VINOS.

----- CLASES Y PRODUCTOS/SERVICIOS O ACTIVIDADES CONCEDIDOS -----

* LOS SOLICITADOS

----- ACTOS DE TRAMITACION -----

16/01/2014 EFECTUADO TRAM. ART.18.4 LEY SIN DETECTAR ANTERIORIDADES RELEVANTES

22/01/2014 PUBLICACION DE SOLICITUD

29/04/2014 PUBLIC. CONCESION DE F. RESOL. 09/04/2014

23/10/2014 SOLICI.REGISTRO INTERNAC

Flow SEA natural

Results of the Search

Modality: M Number: 3104745(9) Bis: Type: Date:
TRADEMARK GOODS/SERVICES
DATE OF APPLICATION.....: 27/12/2013 AT 14:07 THROUGH THE INTERNET
GRANTED DATE OF APPLICATION: 27/12/2013
TYPE.....: WORD

TRADE MARK:

FLOW SEA NATURAL

APPLICANT/OWNER.....: NATARAJA S.L.
ADDRESS.....: CALLE MENDEZ NUÑEZ, 17
CITY: MADRID
PROVINCE/POSTAL CODE.....: 28014 MADRID
REPRESENTATIVE: 0733 (1) JORGE ISERN JARA
ADDRESS.....: AVENIDA DIAGONAL, 463 BIS 2
CITY.....: BARCELONA
PROVINCE/CODE.: 08036 BARCELONA

----- CLASSES AND GOODS/SERVICES OR ACTIVITIES APPLIED -----

33 WINES.

----- GOODS/SERVICES OR ACTIVITIES GRANTED -----

* THE ONES APPLIED FOR

----- INCIDENCES -----

16/01/2014 APPLICATION OF ARTICLE 18.4 OF LAW DETECTING NO RELEVANT PRIOR RIGHTS

22/01/2014 PUBLICATION OF THE APPLICATION

29/04/2014 PUBLICATION OF THE GRANTING OF DECISION DATED 09/04/2014

23/10/2014 APPLICATION FOR THE INTERNATIONAL REGISTRATION