

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

I. Office Making the notification:

**National Intellectual Property Center of Georgia**  
**"SAKPATENTI"**  
**5, Antioch Str., 3300 Mtskheta**  
**GEORGIA**

II. Number of the International Registration: **1269362**

International Mark which is the subject of the statement:

**SENSE**

III. Name of the holder (or other indication enabling the identity of the international  
registration to be confirmed): **"VINPROM PESHTERA" S.A. ; 5 "Dunav" bul.,**  
**BG-4000 Plovdiv , Bulgaria**

IV. ☒ Provisional refusal based on an ex officio examination

☐ Provisional refusal based on an opposition

The name and address of the opponent:

☐ Provisional refusal based on both an ex officio examination

and an opposition: **The name and address of the opponent:**

V. ☒ Provisional refusal for all the goods and/or services

☐ Provisional refusal for some of the goods and/or services:

VI. Grounds for refusal:

The trademark is similar and liable to be confused with the international trademark  
"SIXTH SENSE" registered 16.03.2004 under the number 822288 for the goods in  
class 33.

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: **29.07.2016**

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

Acting head of the Department



**Medea Tchitchinadze**

**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<sup>th</sup> 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.

**822288 - SIXTH SENSE**

151

Date of the registration

16.03.2004

180

Expected expiration date of the registration/renewal

16.03.2024

270

Language of the application

English

732

Name and address of the holder of the registration

EDNOLITCHNO DRUJESTVO S OGRANITCHENA

OTGOVORNOST "FINANSKONSULT"

Altzeko str. 16

BG-4000 PLOVDIV

(BG)

812

Contracting State or Contracting Organization in the territory of which the holder has a real and effective industrial or commercial establishment

BG

842

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

Ltd, Bulgaria

740

Name and address of the representative

Vasya Ivanova GERMANOVA

j.k. Drujba 2, bl. 273,

vh. A, ap. 24

BG-1582 SOFIA

(BG)

540

Mark

SIXTH SENSE

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

Sixième sens

511

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

29 Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs, milk and milk products; edible oils and fats.

Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made  
30 from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder;  
salt, mustard; vinegar, sauces (condiments); spices; ice.

Agricultural, horticultural and forestry products and grains not included in other classes; live  
31 animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals;  
malt.

32 Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit  
juices; syrups and other preparations for making beverages.

33 Alcoholic beverages (except beers).

34 Tobacco; smokers' articles; matches.

821

Basic application

BG, 23.10.2003, 67467

882

Basic registration

BG, 16.03.2004, 47428

300

Data relating to priority under the Paris Convention and other data relating to registration of the  
mark in the country of origin

BG, 23.10.2003, 67467

350

Seniority

BG, 23.10.2003, 47428

832

Designation(s) under the Madrid Protocol

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