

State Committee on Science and Technologies
of the Republic of Belarus

Государственный комитет по науке
и технологиям Республики Беларусь

**NATIONAL CENTER OF
INTELLECTUAL
PROPERTY**

**НАЦИОНАЛЬНЫЙ ЦЕНТР
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Our Ref.: 01-23/140

Mr. Wang Binying,
Deputy Director General
W I P O
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Dear Mr. Wang Binying,

Referring to your letter C.8199 of 30th November, 2012, the National Center of Intellectual Property is pleased to inform you about the following.

The legal basis, covering the protection of the names of the states dismissing their registration as a trademark, is the Law of the Republic of Belarus «On Trademarks and Service Marks» (hereafter referred to as “the Law”). According to point 4 of clause 4 of the Law, the trademarks having designations only, which just give reference to the official names of the states, are not registrable. The official names of the countries can be registrable as unprotected elements of a trademark if there is consent of the respective competent authority.

Here follow the examples of the trademarks registered according to the provisions of point 4 of clause 4 of the Law:

- composite trademark No 23815, having a designation “Republic of Belarus”



- device trademark No 858

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- combined trademark No 2723

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and others.

When an ex officio examination is carried out of an application for registration of a trademark which has the official name of country, an abbreviated country name inclusive, our patent office:

i) sends a request to an applicant to produce a permission of the competent authority to use similar designation in a filed trademark (in case of seeking protection according to the national procedure). Should such permission be not produced, the application for the registration will be refused;

ii) makes a decision to preliminarily refuse the registration, referring to the aforesaid clause of the Law (in case of seeking protection under the Madrid system).

The law envisages a repeated examination of the earlier filed application if the applicant filed a request to the patent office within three months from the date of receipt of the refusal decision. The applicant may lodge an appeal against the examination decision to the Council of Appeals or to the Court within 12 months from the date when the official decision was received.

The IP office has no practice to review the decisions on refusal for registration on the referred grounds neither at a stage of repeated examination, nor at a stage of the Appeal Council proceedings. There is a lack of court practice on similar disputes as well. In all the cases, when the formal requests were made to produce the permission of the competent authority to use the official name of the state in a filed trademark, either preliminary refusals for registration on said grounds were issued, or the applicants failed to give replies to the formal requests and did not file requests for a repeated examination.

To give some instances, we may refer you to the applications, filed under the national procedure, which contained such designations as follows: “Norge” - the abbreviated name officially meaning the Kingdom of Norway in Norwegian language (application No 20071036 filed in the name of a Belarusian producer), or “Belarus” - the abbreviated name officially meaning the Republic of Belarus (application Nos 20032767, 20051158, 20051159, 20051160, etc.).

If a designation filed for registration as a trademark is an adjective formed from the name of country, or has a two-letter country code or other indications which may be strongly associated with a specific country, it is regarded as appellation of origin of claimed goods. In the event that an applicant does not originate from the indicated country, such designation is liable to create confusion in the mind of a consumer concerning the applicant and an appellation of origin of goods (point 5.1, clause 4 of the Law).

Furthermore, the application for international registration 617347 «EGYPT-WONDER» filed in the name of a German producer has been refused to be registered in the territory of the Republic of Belarus in the effect that a word element “EGYPT”, contained in a trademark, which is associated with a designation of origin of claimed goods, leads to consumer confusion with regard to the appellation of origin of goods. The same grounds were taken into consideration to reject the applications for international registration No 859547 «Espiritu de Chile», filed by the German applicant, international registration No 918559, which had an indication “Polska” and was filed by the Austrian applicant. The application for international registration No 1054377



being confusingly associated with the national flag of the United States of America and, thus, falsely indicating a designation of origin of the claimed goods, will create confusion in the minds of consumers since the applicant is a Latvian company.

With all good wishes,

Sincerely yours,

Dzianis Niadzvetski,
Acting Director General



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