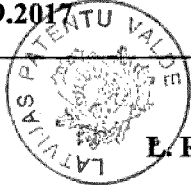


**MADRID AGREEMENT CONCERNING
THE INTERNATIONAL REGISTRATION OF MARKS
AND PROTOCOL RELATING TO THAT AGREEMENT**

PROVISIONAL REFUSAL OF PROTECTION

notified to the World Intellectual Property Organisation (WIPO)
according to Article 5 of the Madrid Agreement and Madrid Protocol

I. Office making the notification of refusal PATENT OFFICE OF THE REPUBLIC OF LATVIA 7/70, Citadeles iela, LV 1010, Rīga LATVIA		Phone 371 67099604 Fax 371 67099650
II. Number of the international registration which is the subject of refusal 1 323 354		
III. Name of the holder of the international registration concerning the subject of refusal EOS PRODUCTS, LLC 19 West 44th Street, Suite 811 NEW YORK NY 10036 (US)		
IV. The grounds of refusal: The mark consists of a three-dimensional, simple geometrical shape which is commonly used by lip balm manufacturers. Consequently, the mark is incapable of distinguishing the goods of one enterprise from those of another enterprise. The mark is devoid of distinctive character.		
V. Reference to the corresponding essential provisions of the law of the Republic of Latvia on Trademarks and Indications of geographical origin (see materials attached) Section 6. (1)2).		
VI. ☒ Refusal for all goods and services ☐ Refusal for the following goods and services:		
VII. Possibilities to review or appeal The holder is entitled, within three months from the date on which the International Bureau has notified of the Provisional Refusal, to submit his objections to the Patent Office of the Republic of Latvia through a professional local patent attorney. After expiration of the said period the Patent Office shall take a final decision. If no answer will be received, the Patent Office will make negative decision, which will not be opened to review.		
VIII. Date on which the present decision was pronounced		07.09.2017
IX. Signature and seal of the office making the notification of refusal Chief expert		 E. Rinka 

Section 6. Absolute Grounds for Refusal and Invalidation of Trade Mark Registration

(1) The following signs may not be registered as trade marks (if they have been registered, such registration may be declared invalid in accordance with the provisions of this Law):

1) those which cannot constitute a trade mark, that is, signs which do not comply with the provisions of Section 3 of this Law;

2) those which lack any distinctive character with respect to the goods or services applied for;

3) those which consist solely of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose (functional task), value, geographical origin, or the time of production of the goods or of providing the services, or other characteristics of the goods or services;

4) those which consist solely of signs or indications (general signs) which have become customary in the current language or in fair and established practices of the trade to designate the goods or services applied for;

5) those which consist solely of a shape which is directly determined by the kind of goods (the shape results directly from the nature of the goods themselves), or which is necessary to obtain a particular technical result, or which gives substantial value to the goods;

6) those which are contrary to public order or to socially accepted principles of morality;

7) those which may deceive consumers regarding the nature, quality or geographical origin, or the like, of the goods or services;

8) those which contain signs, the registration of which, would be refused or invalidated in accordance with Article 6-ter of the Paris Convention, including coats of arms and flags of the member countries of the Paris Union, their official hallmarks (assay marks), control and warranty marks, as well as the emblems, flags, and names of international organisations and the abbreviations thereof, without authorisation by the competent authorities;

9) those which, without authorisation by the competent authorities given in accordance with the procedures laid down in the laws and regulations of the Republic of Latvia, contain the official heraldry approved at the State level, national decorations, Official Service insignia, as well as signs for official hallmarks (assay marks), control, quality, warranty, and safety of using goods which are used with respect to identical or similar goods or services in Latvia;

9¹) those which contain other signs of high symbolic value, as well as religious symbols;

10) with respect to wines - those which contain or consist of an indication of geographical origin identifying wines of particular origin, or with respect to spirits – those which contain or consist of an indication of geographical origin identifying spirits of particular origin, if such is not the genuine place of origin of the wines or spirits for which the trade mark registration has been applied;

11) those which are intended for the marking of agricultural and food products and contain an indication of geographical origin protected in regard to the same agricultural or food products or consist of such protected indication of geographical origin, if the products for which trade mark registration has been applied, do not have the respective origin or if the use of the sign applied for in connection with these products is contradictory to the laws and regulations governing the protection of geographical indications and designations of origin.

(2) A trade mark also shall not be registered or, if registered, may be liable to be declared invalid in accordance with the provisions of this Law if the application for registration of the trade mark was clearly made in bad faith by the applicant.

(3) A trade mark registration may not be refused on the basis of the provisions of Paragraph one, Clauses 2, 3 or 4 of this Section, and shall not be declared invalid on the basis of the same provisions if, as a result of the use of the mark, it has acquired a distinctive character in the perception of the relevant consumers in Latvia with respect to the goods and services for which registration has been applied.

[21 October 2004; 19 November 2015]