

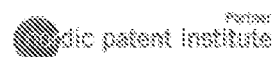
The International Bureau, WIPO
34, chemin des Colombettes
CH-1211 Geneva
Switzerland

Danish Patent
and Trademark Office

Holgervej 64 01
2600 Rosstrup

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CVR no. : 17 03 04 15

Danish Ministry of Economic
and Business Affairs



Our ref: MP1204161
Your Reference:
International Registration: 1204161
Holder: Bio-tec Biologische Naturverpackungen
GmbH & Co. KG

20 October 2017

Mark:



Time limit: 20 February 2018

Dear Madam/Sir

Notification of Total Provisional Refusal of IR 1204161 according to Rule 17(2)

The above-mentioned mark is provisionally refused protection in Denmark for all of the goods and services covered by the designation.

The reasons for the refusal are given in the enclosed examination report. The holder may request a review of the refusal before 20 February 2018. Further information about procedures is found in the report.

Yours faithfully

Elisabeth Grube
Legal adviser, Trademark/Design, (MSc) Business Administration and Commercial Law

Examination Report

Grounds for refusal

We have found that the mark is descriptive and thus lacks distinctive character, cf. the Danish Trade Marks Act, Sections 13(1) and 13(2)(1).

The mark consists of two parts, BIO and PLAST. BIO is a used abbreviation referring to biological and PLAST is commonly used as an abbreviation for plastic. In addition to this, BIOPLAST is defined as “a type of biodegradable plastic derived from biological substances rather than petroleum” (Oxforddictionaries.com) and a common concept used in the industry (see appendix C).

Consequently, the mark may serve to designate the quality of the goods and the intended purpose of the goods and services, namely that the goods applied for in classes 1, 5, 16, 17 and 20 are made of or are intended for biodegradable plastics (bioplastics) and that the services in class 42 are intended for or are specifically concerned with bioplastics.

In regard to the figurative element we find that the leaf as a substitute for the dot above the letter “I” only enhances the fact that the goods and services relate to something biological or natural.

Please be informed that the Danish Trade Marks Act Section 13(3) allows for the registration of marks, which have acquired distinctiveness through use.

List of goods and services

We have found that the list of goods and services is too vague, cf. the Danish Trade Marks Act, Section 12.

According to the Danish Trade Mark Act and the ruling of the ECJ in C-418/02, a trademark application must contain a precise list of the goods and services covered by the registration of the mark.

Since the mark lacks distinctive character for all the goods and services covered by the designation, we will deal with this matter if it becomes relevant, e.g. if the mark has acquired distinctiveness through use.

Request for review of the provisional refusal

You may request a review of the provisional refusal **within 4 months** from the date of issue of the provisional refusal.

Please observe that documents or evidence submitted by you will be available to the public according to the regulations of The Danish Access to Public Administration Files Act.

Final refusal and appeal

If you do not reply within the time limit mentioned above, we will issue a final refusal, which is subject to appeal to the Board of Appeal for Patents and Trademarks.

Further information

We have enclosed guidelines on our search of **earlier rights** (relative grounds for refusal) as well as an abstract of the relevant sections of the Danish Trade Marks Act. See appendices A and B.

Should you have any questions to the above you are welcome to contact us.

Appendix A: Information about search results

Appendix B: Abstract of the Danish Trade Marks Act

Appendix C: BIOPLAST

Appendix A

Information about search results

We have conducted a search in the relevant Danish registers for earlier conflicting rights, such as trademarks, company names and personal names.

Please find the result of our search by following the link below:

<http://onlineweb.dkpto.dk/pvsonline/Varemaerke?action=104&sagID=MP1204161&language=en>

Please note that the search result has not been examined for relative grounds. You can request an examination of relative grounds by contacting our Office.

Please be informed that there might be conflicting Community trademarks and/or trademarks under the Protocol relating to the Madrid Agreement of which we either had no knowledge at all or about which we had no information as to the extent of the trademarks at the time of our search. You should also be aware that other rights which are not included in our search, such as design rights, copyright or closely similar company names, may serve as relative grounds.

General information concerning the relative grounds for refusal

Please note that the rights mentioned in the search report can act as possible grounds for refusal, only if the holders of the cited rights should file an opposition against the validity of the designation in Denmark.

Therefore you may choose to have the designation published in the Danish Trademark Gazette irrespective of the earlier rights. This allows a third party to file an opposition within a period of 2 months from the date of publication.

Should an opposition be filed against the designation, we will inform you accordingly and invite you to comment on the opposition before the Danish Patent and Trademark Office makes a decision. If no opposition is filed within the time limit, the designation will be granted full validity in Denmark.

If you wish to overcome the earlier rights before the designation is published, you can choose to:

Supply us with a letter of consent from the proprietors of the earlier rights, permitting you to make use of the trademark in Denmark and have the trademark published in the Danish Trademark Gazette

and/or

Limit the list of goods and services in order to avoid that the designation covers goods and services similar to those covered by the earlier rights. Please note that a limitation of the list of goods and services should be submitted to the International Bureau (Form MM6) according to Rule 25 of the Common Regulations.

The possibility of overcoming earlier rights through a written consent and/or a limitation of the list of goods and services is also at hand during an opposition procedure.

Appendix B

Abstract of the Danish Trade Marks Act and Order on Application and Registration, etc. of Trade Marks and Collective Marks

Signs of which a trade mark may consist

Section 2

(1) A Trade mark may consist of any sign capable of distinguishing the goods or services of one enterprise from those of other enterprises and capable of being represented graphically, in particular:

- (i) words and word combinations, including slogans, personal names, company names or names of real property;
- (ii) letters and numerals;
- (iii) pictures and designs; or
- (iv) the shape, equipment or packaging of the goods.

(2) A trade mark right shall not be acquired for signs which consist exclusively of a shape which is dictated by the goods themselves, a shape of goods which is necessary to obtain a technical result or a shape which gives substantial value to the goods.

Registration of trade marks

Section 12

(1) An application for the registration of a trade mark shall be filed with the Patent and Trademark Office. The application shall contain a reproduction of the trade mark and state the applicant's name or company. Furthermore, the goods or services for which registration of the trade mark is applied for shall be stated.

(2) The application shall be drawn up in accordance with the provisions laid down pursuant to section 48. The prescribed fee shall accompany the application.

(3) The Patent and Trade mark Office shall keep a register of trade marks. The Office shall publish registrations, etc.

Processing of applications

Section 20

(1) If the application does not comply with this Act or the provisions laid down pursuant to this Act, or if the Patent and Trademark Office has other objections to the acceptance of the application, the Patent and Trademark Office shall notify the applicant accordingly and invite him to file his observations within a specified time limit.

Grounds for refusal

Section 13

(1) For a trademark to be registered it shall be of the nature referred to in section 2, including a distinctive character.

(2) The following trademarks shall not be registered:

- (i) trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of the goods or of rendering the services or other characteristics of the goods or services;

- (ii) trademarks which consist exclusively of signs or indications which are customarily used to designate the goods or services in the current language or in the established practices of the trade.
- (3) Irrespective of the provisions of sub-sections (1) and (2) a trademark may be registered if, before the filing of the application in consequence of the use which has been made thereof, it has acquired a distinctive character.

Section 14

Furthermore, the following shall not be registered:

- (i) trademarks which are contrary to law, public order or morality;
- (ii) trademarks which are liable to mislead the public, for instance as to the nature, quality or geographical origin of the goods or services;
- (iii) trademarks which have not been authorized by the competent authorities and are to be refused pursuant to Article 6ter of the Paris Convention for the Protection of industrial Property, and trademarks which include badges, emblems and escutcheons which are of public interest, unless the consent of the appropriate authority to their registration has been given;

Order on Application and Registration, etc. of Trade Marks and Collective Marks no. 364 of 21 May 2008

Section 2

(1) The application shall indicate:

- (ii) the goods and/or services for which the registration of the mark is requested grouped in classes in compliance with the classification in the Nice Agreement of 1957 with subsequent amendments concerning international classification of goods and services for the purpose of registration of trademarks...

<https://plast.dk/tema/bioplast/>

Plastindustrien.
Brancheforeningen for danske plastiksektorer

Tema

Bioplast

Bioplast er et alternativ til traditionel plast. Traditionel plast er fremstillet af olie og gas. Ekspertter forudser, at verdens olie- og gaslagre vil være opbrugt om 50 år. Klimaforandringerne kræver nye ressourcer at trække på, som er bedre for klimaet. Derfor skal vi finde andre materialer at fremstille plast af. Biomasse som sukkerroer, majs og halm kan bruges til at fremstille plast. Biomasse er en fornybar ressource i modsætning til olie og gas. Plast fremstillet af biomasse er en klimavenlig løsning, da biomasse er CO₂-neutral i modsætning til olie og gas. Danske forskere er langt fremme med udviklingen af metoder til at omdanne biomasse til alle typer af polymerer, som er plastens kemiske byggesten.

<https://www2.mst.dk/Udgiv/publikationer/2014/12/978-87-93283-40-4.pdf>

Anvendelse og potentiale for brug af bioplast i Danmark

Kortlægning af kemiske stoffer i
forbrugerprodukter nr. 133, 2014



Bæredygtig plast - Anvendelser og egenskaber af bioplast

Bioplast defineres af IUPAC som et plastmateriale baseret på biomasse frem for fossile ressourcer, som konventionelt plast er fremstillet ud fra. Derudover kan der også tilsættes forstærkende biobaserede fibre til enten biobaseret eller konventionelt plast i de såkaldte bio- eller naturfiberkompositter. Bioplast kan være bionedbrydeligt (dvs. nedbrydeligt af mikroorganismer), men er det ikke nødvendigvis – omvendt kan konventionelt plast også sagtens være bionedbrydeligt. Bionedbrydelige materialer anvendes bl.a. til emballage, poser og plantefolier, og her er det naturligvis vigtigt at have styr på materialets stabilitet og nedbrydelighed i forskellige omgivelser.

Vælg side

- 01. Bæredygtig plast
- 02. Anvendelser og egenskaber af bioplast
- 03. Fra plastaffald til nyt råmateriale
- 04. Anvendelse af genbrugsplast i produkter
- 05. Plastprodukter i cirkulær ressourceøkonomi

<https://www.affald.dk/da/ungdomsuddannelser/plast/artikler/655-bioplast-hvad-er-det.html>

The screenshot shows the Affald.dk website interface. At the top, there's a navigation bar with 'Affald.dk' logo and links for 'Bilder', 'Film', and 'Spørg eksperter'. Below this is a search bar labeled 'Vælg tema'. The main content area is titled 'Plast' and has sub-navigation for 'Video', 'Artikler', 'Fotos', and 'Links'. The article 'Bioplast – hvad er det?' is featured, with a sub-header 'Plast er lavet af råolie. Men det kan også laves af andre råvarer. På sigt er det måske en rigtig god idé.' The article text discusses the depletion of oil reserves and the need for sustainable alternatives like bioplast.

Affald.dk

Bilder Film Spørg eksperter

Vælg tema

Plast

Video Artikler Fotos Links

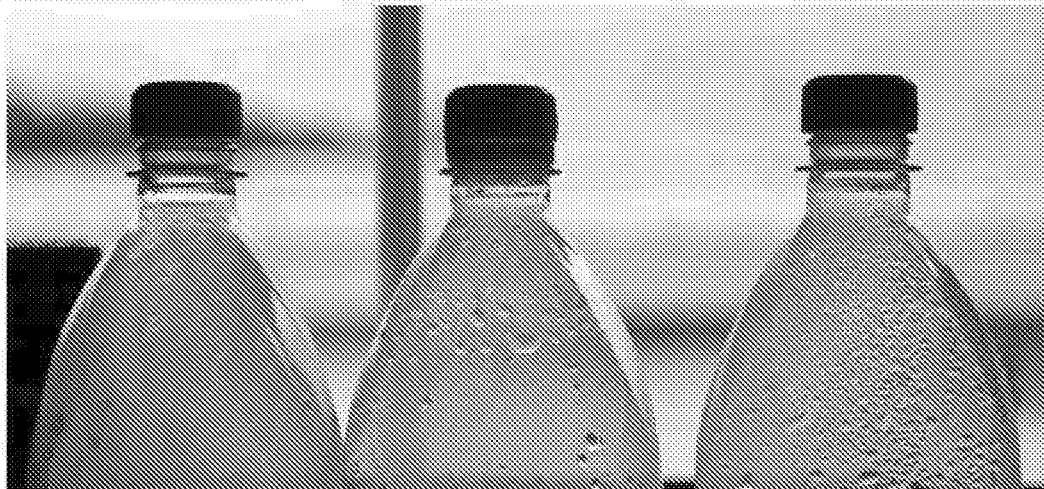
Bioplast – hvad er det?

Plast er lavet af råolie. Men det kan også laves af andre råvarer. På sigt er det måske en rigtig god idé.

Der er ikke uendelige mængder olie her på jorden. Eksperter forudser at oliereserverne vil blive tømt inden for de næste 40 år. Desuden skaber vores forbrug af fossile brændstoffer globale klimaforandringer, og det kan få alvorlige konsekvenser for både mennesker og natur. Vi må derfor prøve at skifte olien ud med andre råstoffer som er bedre for klimaet.

It's time for bioplastics to be plastics

By Adam Gendell in Sustainable Packaging on March 08, 2017



<https://ing.dk/artikel/bioplast-skal-genbruges-ikke-formuldes-99557>

ANALYSE

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DANMARKS RAKETBYGGERE

SE: FLERE >

Bioplast skal genbruges - ikke formuldes

En af Danmarks største emballageproducenter dumper bioplast, der kan forsvinde i den blå luft.

Af Julie Ring-Hansen i alt 19 jan 2019 kl. 00:45



Plastikposer, der stort set kan spises eller bare efterlades i Gyrehaven, er nærmere af mediestunt end et reelt alternativ. Det mener den danske plastindustri, der ellers ser bioplast som en miljørigtig erstatning for oliebasert plast.

Jobfinder

RELATEREDE JOB



IT-arkitekt profil med
erfaring og lyst til faglig
udvikling



Flyndreseriet
maskiningeniør

Education

Biodegradability

Biomass

Bioplastics

Carbon Neutrality

Certifications

Composting

Ocean Plastic Pollution

Recycling

Sustainability

The Problem


Petroleum-based plastics are economically unsustainable

Up to 10% of total U.S. oil consumption is used for the production of conventional plastics. prices continue to rise, so does the cost of plastic materials, virtually all of which are petrol. These costs are passed on to both consumers and businesses.

Looking to the near future, our widespread use of petroleum-based plastic products and our dependence on fossil fuels is economically unsustainable.

Petroleum-based plastics are toxic to the environment and toxic to us

https://www.euroshop-tradefair.com/cgi-bin/md_euroshop/lib/pub/tt.cgi/Bioplastics_for_Packaging_%E2%80%93_More_Sustainable_than_Plastic.html?oid=11557&lang=2&ticket=g_u_e_s_t

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EuroShop / Magazine / Bioplastics for Packaging – More Sustainable than Plastic?

Bioplastics for Packaging – More Sustainable than Plastic?

It is one of the big trends in our society: if it can't be entirely "organic", these days merchandise –especially foods – should at least come from sustainable production. Consumers ask more often for these products, which is why retail also offers them more and more. But the demand for sustainability doesn't end with the merchandise: packaging is also following this trend.

The retail sector in particular requires enormous amounts of packaging materials. This is why retailers today don't just need to ask themselves how sustainable the resources can be provided for production, but also how discardable packaging can be best recycled and reused.

Are bioplastics the logical consequence for packaging?