

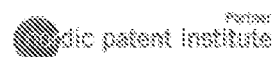
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CVR-no. : 17 03 04 15

Danish Ministry of Economic  
and Business Affairs



Our ref: MP1352172  
Your Reference:  
International Registration: 1352172  
Holder: Mezrin Iurii Valeriiovich  
Mark: game guru  
**Time limit:** 5 April 2018

5 December 2017

Dear Madam/Sir

## Correction to

### Notification of Partial Provisional Refusal of IR 1352172 according to Rule 17(2)

The previously notified provisional refusal contained an error and is replaced by the following provisional refusal and time-limit for request for review:

The above-mentioned mark is provisionally refused protection in Denmark for some of the goods/services covered by the designation, namely:

**Class 9:**

Computer memory devices; disks, magnetic; memory cards for video game machines; integrated circuit cards [smart cards]; compact discs [audio-video]; compact discs [read-only memory]; computer game software; computer programs [downloadable software]; computer programmes [programs], recorded.

**Class 28:**

Arcade video game machines; video game machines; jigsaw puzzles; joysticks for video games; board games.

**Class 41:**

Videotaping; electronic desktop publishing; providing on-line videos, not downloadable; providing on-line electronic publications, not downloadable; game services provided on-line from a computer network.

The reasons for the refusal are given in the enclosed examination report. The holder may request a review of the refusal before 5 April 2018. Further information about procedures is found in the report.

Yours faithfully

Mikael Francke Ravn  
Senior Legal Adviser, Trademarks/Design, Master of 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, GAME and GURU. A guru, in modern language, can be defined as a person with great knowledge/expertise in a given field. Thus for the goods and services mentioned in the refusal, the mark may indicate that the goods/services are developed or created by a game guru.

Consequently, the mark may serve to designate the quality of the goods/services .

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

A request for review shall be sent by post or e-mail to:

Address

Patent- og Varemærkestyrelsen  
Helgeshøj Allé 81  
DK-2630 Taastrup  
Denmark

E-mail

pvs@dkpto.dk

### 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.

If you do not appeal our final decision, we will publish the mark for the remaining goods/services, namely:

Class 9:

3D spectacles; electronic pens [visual display units]; computers; computer hardware; joysticks for use with computers, other than for video games; computer keyboards; computer peripheral devices; laptop computers; mobile telephones; modems; monitors [computer programs]; monitors [computer hardware]; headphones; notebook computers; tablet computers; smartwatches; smartglasses; smartphones; USB flash drives.

Class 28:

practical jokes [novelties]

Class 35:

Administration of consumer loyalty programs; web indexing for commercial or advertising purposes; market studies; opinion polling; providing business information via a web site; compilation of infor-

mation into computer databases; compilation of statistics; commercial information and advice for consumers [consumer advice shop]; marketing; marketing research; provision of an on-line marketplace for buyers and sellers of goods and services; writing of curriculum vitae for others; writing of publicity texts; scriptwriting for advertising purposes; word processing; updating of advertising material; updating and maintenance of data in computer databases; web site traffic optimization; rental of advertising space; commercial information agency services; outsourcing services [business assistance]; commercial intermediation services; layout services for advertising purposes; news clipping services; advertising agency services; search engine optimization for sales promotion; presentation of goods on communication media, for retail purposes; publicity material rental; rental of advertising time on communication media; direct mail advertising; publication of publicity texts; advertising; pay per click advertising; advertising by mail order; on-line advertising on a computer network; dissemination of advertising matter; design of advertising materials; systemization of information into computer databases; sales promotion for others; production of advertising films; negotiation and conclusion of commercial transactions for third parties.

**Class 41:**

providing on-line music, not downloadable; recreation information; entertainment information; writing of texts; layout services, other than for advertising purposes; providing amusement arcade services; club services [entertainment or education]; translation; mobile library services; news reporters services; recording studio services; photographic reporting; music composition services; on-line publication of electronic books and journals; publication of books; publication of texts, other than publicity texts; entertainment services; production of music; film production, other than advertising films.

**Class 42:**

Computer system analysis; outsource service providers in the field of information technology; duplication of computer programs; providing information on computer technology and programming via a web site; providing search engines for the internet; installation of computer software; computer programming; conversion of data or documents from physical to electronic media; computer technology consultancy; information technology [IT] consultancy; computer software consultancy; consultancy in the design and development of computer hardware; web site design consultancy; monitoring of computer systems by remote access; maintenance of computer software; software as a service [SaaS]; computer software design; rental of web servers; rental of computer software; hosting computer sites [web sites]; computer system design; creating and maintaining web sites for others; server hosting; graphic arts design.

**Further information**

Please see Appendices A and B for information on our search of **earlier rights** (relative grounds for refusal) and an abstract of the relevant sections of the Danish Trade Marks Act.

You are welcome to contact us if you have any questions.

Appendix A: Information about search results

Appendix B: Abstract of the Danish Trade Marks Act

## **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=MP1352172&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...