

PROVISIONAL REFUSAL OF PROTECTION - PRELIMINARNO ODBIJANJE ZAŠTITE

According to Rule 17 of the Common Regulations under the Madrid Agreement and Protocol / Sukladno Pravilu 17. Zajedničkog pravilnika
uz Madridski sporazum i Protokol

Our reference: UP/I-910-08/07-010/0066 559-04/3-17-005/VDP	
I Office making the notification / Nacionalni ured koji je odbio zaštitu:	 State Intellectual Property Office of the Republic of Croatia / Državni zavod za intelektualno vlasništvo Republike Hrvatske Ulica grada Vukovara 78, 10000 Zagreb (Croatia), tel.: +385 1 6106-100, 6106-109, fax.: +385 1 6112-017
II Number of the international registration / Broj međunarodne registracije:	135 2138
III Name and the address of the holder / Ime i adresa nositelja:	HYUNDAI MOTOR COMPANY 12, Heolleung-ro, Seocho-gu Seoul 06797 (Republic of Korea (KR))
IV Provisional refusal based on opposition/ Privremeno odbijanje na temelju prigovora	
V Grounds for refusal (see the text in column X) / Razlozi odbijanja (vidjeti tekst u rubrici X):	
VI Corresponding essential provisions of the applicable law (see the text in column XI) / Odgovarajuće bitne odredbe nacionalnog zakona koji se primjenjuje (vidjeti tekst u rubrici XI): Art. 6 para. 1 point 2	
VII Scope of the provisional refusal / Opseg privremenog odbijanja ☒ Provisional refusal for all the goods and/or services/ Odbijanje za sve proizvode i/ili usluge ☐ Provisional refusal for some of the goods and/or services/ Odbijanje za neke od proizvoda i/ili usluga	
VIII Information relating to subsequent procedure / Obavijesti o daljnjem tijeku postupka: The holder of the international trademark registration may file her/his observations on the provisional refusal. She/he shall file her/his observations to the State Intellectual Property Office only by the intermediary of a representative established in the Republic of Croatia. A copy of the opposition shall be communicated to the representative after the filing of a power of attorney for representation. The time limit for filing the power of attorney shall be 4 months, counting from the date of the notification of refusal, or up to 11 April 2018, and the time limit for filing observations shall be 60 days counting from the day of receipt of a copy of the opposition by the representative. If the power of attorney is not filed up to the mentioned date, the requested registration of the trademark shall be refused within the limits of the requests referred to in the opposition. Nositelj međunarodne registracije žiga se može očitovati na privremeno odbijanje. Očitovanje treba podnijeti Državnom zavodu za intelektualno vlasništvo Republike Hrvatske isključivo uz posredovanje domaćega zastupnika. Primjerak prigovora bit će dostavljen zastupniku nakon podnošenja punomoći o zastupanju. Rok za podnošenje punomoći je 4 mjeseca računajući od datuma obavijesti o odbijanju odnosno, do 11. travnja 2018., a rok za očitovanje je 60 dana od dana primitka primjerka prigovora od strane zastupnika. Ako punomoć ne bude podnesena do navedenoga datuma, zatražena registracija će biti odbijena u granicama zahtjeva navedenih u prigovoru.	
IX	11/12/2017 Date of the notification of provisional refusal / Datum obavijesti o privremenom odbijanju Signature or official seal / Potpis i službeni pečat

X

On 29 September 2017, the applicant SOLARIS IP spółka z ograniczoną odpowiedzialnością spółka komandytowa, ul. Obornicka 46, Bolechowo Osiedle, 62-005 Owińska, (PL), represented by authorized representative Odvjetničko društvo Vukmir i suradnici, Gramača 2L, 10000 Zagreb, HR, filed an opposition to the international trademark registration no. 135 2138 in the Republic of Croatia for all the goods/services, based on an earlier EUTM trademark registration n°009038696 ("SOLARIS")

Trademark information: n°009038696 ("SOLARIS")

Applicant: SOLARIS IP spółka z ograniczoną odpowiedzialnością spółka komandytowa

Address of the holder: Obornicka 46, Bolechowo Osiedle, 62-005 Owińska, (PL)

Registration date: 27 09 2010

Goods/services: class(es) 12, 37 (attachment list)

The signs are in conflict for all the goods/services of the international registration n°135 2138.

Due to the mentioned opposition, the protection in the Republic of Croatia shall not be provisionally granted to the international registration no. 135 2138 for all the goods/services.

Excerpt from the register enclosed

XI Corresponding essential provisions of the applicable law:

Relative grounds for refusal – Article 6 of the Trademarks Act (Official Gazette of the Republic of Croatia: 173/03, 76/07, 30/09 i 49/11)

(1) Upon an opposition as filed, a sign shall not be registered:

1. if it is identical with an earlier trademark registered for identical goods or services,
2. if because of its identity with, or similarity to, the earlier trademark and the identity or similarity of the goods or services, there is a likelihood of confusion on the part of the public, which includes the likelihood of its association with the earlier trademark.

(2) For the purposes of this Act, "earlier trademark" shall mean:

1. trademarks registered in the Republic of Croatia, enjoying priority right referred to in Articles 17, 18 and 19 of this Act,
2. trademarks registered under international treaties, having effect in the Republic of Croatia, and enjoying priority right referred to in Articles 17, 18 and 19 of this Act,
3. applications for the registration of trademarks referred to in item 1 of this paragraph, provided that the trademarks become registered, 4. trademarks which, on the date of application for the registration of a trademark, or, if priority is claimed, on the date of priority right claimed in the application, are well known in the Republic of Croatia, in the sense in which the words "well known" are used in Article 6bis of the Paris Convention.

(3) Upon opposition as filed by the holder of an earlier trademark, a sign shall not be registered if it is identical with, or similar to, an earlier trademark and the registration has been requested for goods or services which are not similar to those for which the earlier trademark is registered, where the earlier trademark has a reputation in the Republic of Croatia and where the use of the later trademark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the reputation of the earlier trademark;

(4) Upon opposition as filed, a sign shall not be registered if its use would infringe one of the following earlier rights:

1. a right to a personal name,
2. a right of personal portrayal,
3. a copyright,
4. industrial property rights.

(5) For the purposes of this Act, "earlier right" shall mean rights acquired on the date which is earlier than the date of application for the registration of a trademark, or, if priority right is claimed, as from the date of priority claimed in the application.

(6) On the basis of opposition as filed, a sign shall not be registered if its use would infringe the right of the person who, at the time of filing of an application for the registration of a trademark, had a firm, provided that such firm or the essential part thereof is identical with or similar to the sign in respect of which the application is filed and provided that identical or similar goods or services are the subject matter of the firm's activity, unless the applicant had the identical or similar firm at the time of filing the application for registration of a trademark.

(7) On the basis of opposition as filed, a sign shall not be registered if it is identical with, or similar to, an earlier trademark which was registered for identical or similar goods or services and conferred on them a right which has expired for failure to renew the registration of the trademark within a period of not more than two years as from the expiry of the trademark, unless the holder of the earlier trademark gave his consent for the registration of the later trademark or did not use his trademark.

Relativni razlozi za odbijanje – Članak 6. Zakona o žigu (Narodne novine Republike Hrvatske 173/03, 76/07, 30/09 i 49/11)

(1) Na temelju podnesenoga prigovora neće se registrirati ni znak:

1. ako je istovjetan s ranijim žigom registriranim za istovjetne proizvode ili usluge,
2. ako zbog njegove istovjetnosti ili sličnosti s ranijim žigom i istovjetnosti ili sličnosti proizvoda ili usluga postoji vjerojatnost dovođenja javnosti u zabludu, što uključuje vjerojatnost dovođenja u svezu s ranijim žigom.

(2) Za potrebe ovoga Zakona pod pojmom »raniji žig« razumijevaju se:

1. žigovi registrirani u Republici Hrvatskoj koji uživaju ranije pravo prvenstva iz članka 17., 18. i 19. ovoga Zakona,
2. žigovi registrirani na temelju međunarodnih sporazuma koji vrijede u Republici Hrvatskoj i koji uživaju ranije pravo prvenstva iz članka 17., 18. i 19. ovoga Zakona,
3. prijave za registraciju žigova iz točke 1. ovoga stavka, pod uvjetom da žigovi budu registrirani,
4. žigovi koji su na dan prijave za registraciju žiga ili, ako je zatraženo pravo prvenstva, na datum prava prvenstva zatraženog u prijavi, dobro poznati u Republici Hrvatskoj u smislu u kojemu se riječi »dobro poznat« rabe u članku 6.bis. Pariške konvencije.

(3) Na temelju podnesenoga prigovora nositelja ranijega žiga neće se registrirati ni znak ako je istovjetan s ranijim žigom ili sličan ranijem žigu, a zatražena je registracija za proizvode ili usluge koji nisu slični onima za koje je registriran raniji žig kada raniji žig ima ugled u Republici Hrvatskoj i kada bi uporaba kasnijega žiga bez opravdanoga razloga nepošteno iskoristila razlikovni karakter ili ugled ranijega žiga ili im naštetila.

(4) Na temelju podnesenoga prigovora znak neće biti registriran ako bi njegova uporaba vrijeđala neko od sljedećih ranijih prava:

1. pravo na osobno ime,
2. pravo na osobnu sliku,
3. autorsko pravo,
4. prava industrijskoga vlasništva.

(5) Za potrebe ovoga Zakona pod pojmom »ranije pravo« razumijevaju se prava stečena na datum koji je raniji od datuma prijave za registraciju žiga ili, ako je zatraženo pravo prvenstva, od datuma prava prvenstva zatraženog u prijavi.

(6) Na temelju podnesenoga prigovora znak neće biti registriran ako bi njegova uporaba vrijeđala pravo osobe koja je u vrijeme podnošenja prijave za registraciju žiga imala tvrtku, pod uvjetom da je ta tvrtka ili bitni dio tvrtke istovjetan s prijavljenim znakom ili sličan prijavljenom znaku i pod uvjetom da su istovjetni ili slični proizvodi ili usluge predmet djelatnosti te tvrtke, osim ako je podnositelj prijave u trenutku prijave imao istovjetnu ili sličnu tvrtku.

(7) Na temelju podnesenoga prigovora znak neće biti registriran ako je istovjetan s ranijim žigom ili sličan ranijem žigu koji je bio registriran za istovjetne ili slične proizvode ili usluge, a iz kojega proizlazi pravo koje je isteklo zbog neproduženja registracije žiga u razdoblju od najviše dvije godine od datuma isteka vrijednosti žiga, osim ako je nositelj ranijega žiga dao svoju suglasnost za registraciju kasnijega žiga ili nije rabio svoj žig.

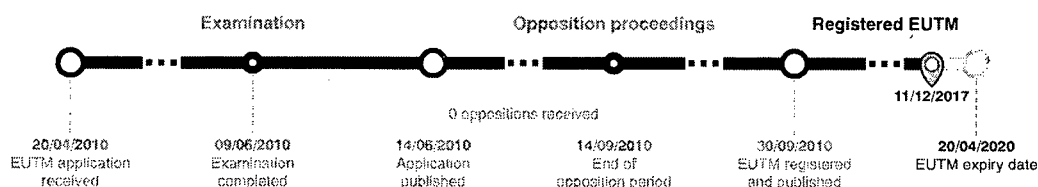


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EUTM file information

SOLARIS
009038696

Timeline



Trade mark information

Name	SOLARIS	Filing date	20/04/2010
Filing number	009038696	Registration date	27/09/2010
Basis	EUTM	Expiry date	20/04/2020
Date of receipt	20/04/2010	Designation date	
Type	Word	Filing language	Polish
Nature	Individual	Second language	English
Nice classes	12, 37 (Nice Classification)	Application reference	Pbx/445/10
Vienna Classification		Trade mark status	Registered
		Acquired distinctiveness	No

Goods and services

English (en)

12 Motor buses, motor coaches, vehicles for locomotion by land, spare parts for motor buses, motor coaches and vehicles for locomotion by land, not included in other classes.

37 Vehicle repair, vehicle maintenance.

Description

No data

Owners

SOLARIS IP spółka z ograniczoną odpowiedzialnością spółka komandytowa

ID	762297	Country	PL - Poland	Correspondence address	
Organisation	SOLARIS IP spółka z ograniczoną	State/country	n/a	SOLARIS IP spółka z ograniczoną odpowiedzialnością spółka	Can be accessed and changed by authorised user via the User Area
		Town	Owińska		

Legal status	odpowiedzial spółka komandytowa	Post code	62-005	komandytowa ul. Obornicka 46, Bolechowo Osiedle 62-005 Owieńska POLONIA	Can be accessed and changed by authorised user via the User Area
	Legal entity	Address	ul. Obornicka 46, Bolechowo Osiedle		Can be accessed and changed by authorised user via the User Area

Representatives

KANCELARIA PATENTOWA PATENTBOX ROMUALD SUSZCZEWICZ

ID	27983	Country	PL - Poland	Correspondence address	
Organisation	n/a	State/country	n/a	KANCELARIA PATENTOWA PATENTBOX ROMUALD SUSZCZEWICZ	00 48-618529911
Legal status	Legal person	Town	Poznań	ul. Piekary 6/17	00 48-618517387
Type	Association	Post code	61-823	61-823 Poznań	
		Address	ul. Piekary 6/17	POLONIA	kancelaria@patentbox.pl

Correspondence

From	Procedure	Filing number	Subject	Date	Actions
	Recordal	012803022	Right in Rem Creation - Communication to non applicant (C.5.1)	29/05/2017	
	Recordal	012803022	Rights in Rem Creation - Notification of entry (C.5.1.)	29/05/2017	
	Recordal	012803022	Application form and attachment	22/05/2017	
	EUTM	009038696	Surveillance letter	23/02/2017	
	Recordal	011273532	T722M - Registration of recordal C.1.3 / B.2.2	10/08/2016	
	Recordal	011273532	Letter to the EUIPO	05/08/2016	
	Recordal	010957366	Transfers - entry on the register.	24/05/2016	
	Recordal	010957366	Transfers - deficiency/rejection.	23/05/2016	
	Recordal	010957366	Letter to the EUIPO	23/05/2016	
	Recordal	010957366	Application form and attachment	19/05/2016	

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IR transformation

No data

Seniority

No data

Exhibition priority

No data

Priority

No data

Publications

Bulletin number	Date	Section	Description
2010/107	14/06/2010	A.1	Applications published under article 40 EUTMR
2010/184	30/09/2010	B.1	Registrations with no amendments since the application was published
2010/209	08/11/2010	C.2.1	Representative - Change of name and professional address
2012/081	30/04/2012	C.2.1	Representative - Change of name and professional address
2016/018	28/01/2016	C.1.1	Proprietor - Total transfers
2016/096	26/05/2016	C.1.1	Proprietor - Total transfers
2016/148	09/08/2016	C.1.3	Proprietor - Change of name and address
2017/101	31/05/2017	C.5.1	Creation of rights in rem

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Cancellation

No data

Recordals

Bulletin number	Date	Section	Filing number	Title	Subtitle
2010/209	08/11/2010	C.2.1	005174969	Representative	Change of name and professional address
2012/081	30/04/2012	C.2.1	006447596	Representative	Change of name and professional address
2016/018	28/01/2016	C.1.1	010501156	Proprietor	Total transfers
2016/096	26/05/2016	C.1.1	010957366	Proprietor	Total transfers
2016/148	09/08/2016	C.1.3	011273532	Proprietor	Change of name and address
2017/101	31/05/2017	C.5.1	012803022	Rights <i>in rem</i>	Creation of rights in rem

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Oppositions

No data

Appeals

No data

Decisions

No data

Renewals

No data

Trade mark relations

No data