DANISH PATENT AND TRADEMARK OFFICE

Danish Patent
and Trademark Office

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Danish Ministry of Economic
and Business Affairs

Nordic patent institute

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

Our ref:	MP1293468	27 August 2018
International Registration:	1293468	
Holder:	Centoventipercento S.r.l.	
Mark:	120 % cashmere	
Time limit:	27 December 2018	

Dear Madam/Sir

Notification of Total Provisional Refusal of IR 1293468 **according to Rule 17(2)**

The above-mentioned mark is provisionally refused protection in Denmark for all of the goods/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 **27 December 2018**. Further information about procedures is found in the report.

Yours faithfully

Zebbie Elisabeth Oyier Gaya
Legal Adviser, Trademarks/Design, Master of Law LLM

DOKUMENT SCANNET

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 label-like square with the text "120 % cashmere".

Regarding the word elements

120 % refers to 20 % more than the total of 100%. The word English word cashmere is descriptive of *fine soft wool from goats of the Kashmir area*, cf. the Oxford dictionary. English is one of the languages that the Office considers Danish people to generally have a good knowledge of. If an English word is therefore found in a common translation dictionary, the Office will basically consider the word as known by the ordinary Danish consumer. Both the use of the English word "cashmere" and the Danish equivalent "kashmir" is commonly used in the Danish trade. The relevant consumer will understand the words as a meaningful expression – cloth or knitted material so pure that it contains more than 100% of cashmere.

The relevant public will perceive the expression "120 % cashmere" as a promotional laudatory message describing a characteristic of the goods. The relevant public will therefore not tend to perceive the text "120% cashmere" as an indication of commercial origin but solely as the positive promotional information that the textiles and items of clothing are made of pure cashmere, so pure that it contains more than 100% cashmere. The hyperbolic expression of 120 % clearly shows that the goods provide something more which exceeds the expected norm. Therefore there is nothing about the expression "120% cashmere" that might, beyond its obvious promotional laudatory meaning, enable the relevant public to memorise the text as a distinctive trade mark that they easily and instantly connect with goods in question. In **appendix c** we have attached some examples of how this type of hyperbolics is applied both commercially and generally in the Danish language.

Regarding the figurative element

The figurative elements of the trade mark consists of a label-like square with the text "120 % cashmere" written with a font that looks like handwriting. The mark is figuratively of a geometric basic form and will be perceived as a label. The text element of the mark is placed in a banal, rectangular label which is not capable of impressing itself on the consumer's mind, since it is too simple and/or commonly used in connection with the goods claimed as it resembles to labels indicating the composition of materials in cloths. Overall there is nothing striking in the mark which would make it memorable to the relevant consumers.

Consequently, taken as a whole, the mark applied for, is devoid of any distinctive character and is not capable of distinguishing the goods for which registration is sought within the meaning of the Danish Trade Marks Act, Sections 13(1) and 13(2)(1).

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 send 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.

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: Examples of similar hyperbolics

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=MP1293468&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;

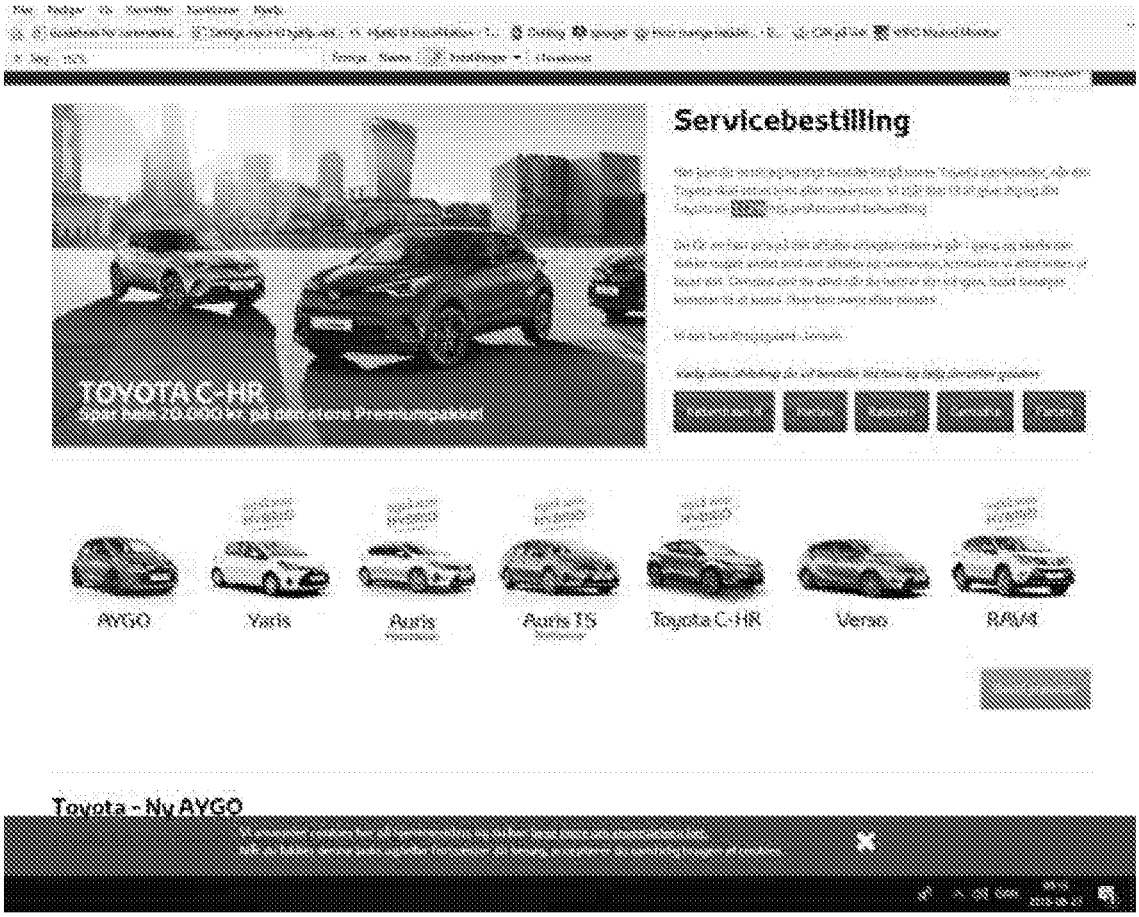
Order on Application and Registration, etc. of Trade Marks and Collective Marks no. 364 of 21 May 2008

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…

Appendix C



https://toyota-krogsgaard.dk/

autohusetfyn

Odense - Marslev - Tlf. 70 70 70 39

Dit lokale, stabile autoværksted

110% prismatch på faste ydelser

110% prismatch

på faste ydelser

110%

PRISMATCH

https://www.autohusetfyn.dk/vi-tilbyder/110-prismatch-pa-faste-ydelser

Quality Initiatives

Aiming for 120% products quality

"We have to aim for [redacted] quality. If 99% of the products we make are perfect, that would seem like a pretty good record. However, the customers who become the owners of the remaining 1% will surely consider their products 100% defective. It is unacceptable that even one customer in a thousand-even one customer in ten thousand-should receive a defective product. That's why we have to aim for 120%." When Founder Soichiro Honda said this he defined the company's fundamental approach to quality: what it means to strive to be a company society wants to exist. Determined to meet or exceed the expectations of customers, Honda is taking new initiatives to reach ever-higher product quality standards. That is why we are.

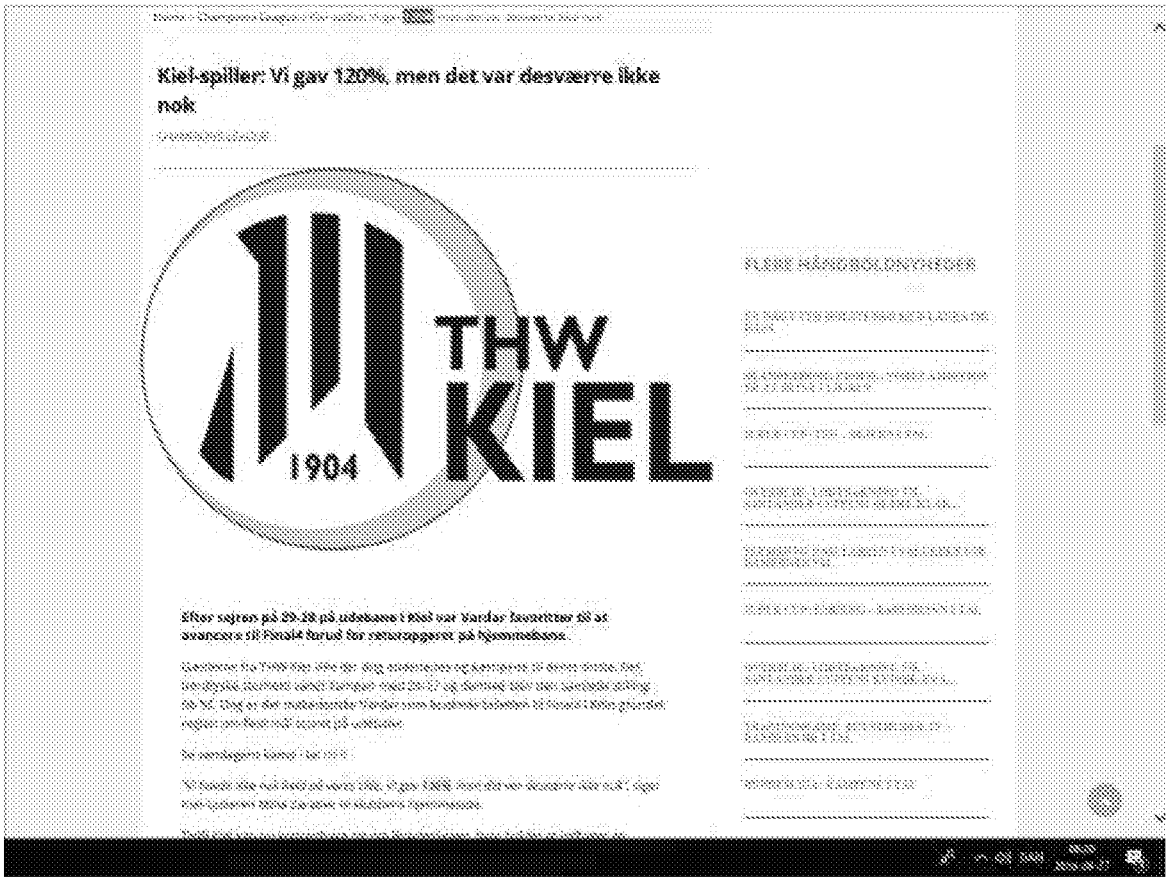
To strengthen customer trust by offering products founded in safety and offering a new level of outstanding quality, Honda has created a quality circle that continuously enhances quality at every stage: design, development, production, sales and after-sales service.

Implementing the Global Honda Quality Standard (G-HQS)

As Honda's production and parts and materials sourcing expand globally, a shared global quality assurance standard is essential to ensuring that all Honda facilities continue to support 120% product quality.

To address this need, Honda estab[redacted]d (G-HQS) in April 2005. Based

https://world.honda.com/sustainability/report/pdf/2012/report_2012-09.pdf



https://www.hbold.dk/2018/04/30/kiel-spiller-vi-gav-120-men-det-var-desvaerre-ikke-nok/