

| |
|---|
| X. (Title and date of the applicable national law) |
|---|

Extract from the Trade Mark Law

Version of 19/10/2013, Section 96 updated

Absolute obstacles to protection

8. - (1) Signs eligible for protection as a trade mark within the meaning of section 3 which cannot be depicted graphically shall be excluded from registration.
- (2) The following trade marks shall be excluded from registration
1. those which are devoid of any distinctive character for the goods or services,
 2. which consist exclusively of signs or indications which may serve, in the course of trade, to designate the nature, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the services or to designate other characteristics of the goods or services,
 3. which consist exclusively of signs or indications which have become customary in the current usage or in the bona fide and established practices of the trade to designate the goods or services,
 4. which are of such a nature to mislead the public, in particular with regard to the nature, the quality or the geographical origin of the goods or services,
 5. which are contrary to public policy or to accepted principles of morality,
 6. which contain state coats of arms, state flags or other sovereign state symbols or coats of arms of a domestic locality or of a domestic municipal or other local authority association,
 7. which contain official certification marks or hallmarks which are excluded from registration as a trade mark in accordance with a notice made by the Federal Ministry of Justice in the Federal Law Gazette (BGBl.),
 8. which contain coats of arms, flags or other symbols, seals or designations of international intergovernmental organisations which are excluded from registration as a trade mark in accordance with a notice made by the Federal Ministry of Justice in the Federal Law Gazette,
 9. the use of which can evidently be prohibited in the public interest in accordance with other provisions, or
 10. which have been applied for in bad faith.
- (3) Subs. 2 Nos. 1, 2 and 3 shall not apply if, prior to the point in time of the decision on registration, the trade mark has become established in the trade circles involved as a result of its use for the goods or services for which the application was filed.
- (4) Subs. 2 Nos. 6, 7 and 8 shall also be applied if the trade mark contains the imitation of a sign listed there. Subs. 2 Nos. 6, 7 and 8 shall not be applied if the applicant is empowered to include in the trade mark one of the signs listed therein, even if it can be confused with one of the other signs listed therein. Subs. 2 No. 7 shall furthermore not be applied if the goods or services for which the trade mark application was filed are neither identical with nor similar to those for which the certification mark or hallmark has been introduced. Subs. 2 No. 8 shall further not be applied if the trade mark applied for is not suitable to create among the public the incorrect impression of a connection with the international intergovernmental organisation.

Trade marks that have been filed or registered as relative obstacles to protection

9. - (1) The Registration of a trade mark may be cancelled
1. if it is identical to a trade mark applied for or registered which has older seniority and the goods or services for which it was registered are identical with the goods or services for which the trade mark with older seniority was filed or registered,
 2. if the likelihood of confusion exists, including the likelihood of association between the trade marks, for the public because of its identity with or similarity to a trade mark applied for or registered with older seniority and owing to the identity or similarity of the goods or services covered by both trade marks, or
 3. if it is identical with or similar to a trade mark applied for or registered with older seniority and has been registered for goods or services which are not similar to those for which the trade mark with older seniority has been filed or registered, if the trade mark with older seniority is a trade mark which has a reputation in this country and the use of the registered trade mark would without due cause take unfair advantage of, or be detrimental to, the distinctive character or the repute of the trade mark which has a reputation.
- (2) Applications for trade marks shall only constitute an ground for refusal within the meaning of subs. 1 if they are registered.

Opposition

42. - (1) Within a three-month period after the date of the publication of the registration of the trade mark in accordance with section 41, the proprietor of a trade mark or of a commercial designation with older seniority may lodge an opposition against the registration of the trade mark.
- (2) The opposition may only invoke that the trade mark may be cancelled
1. because of a trade mark applied for or registered with older seniority in accordance with section 9,
 2. because of a well-known mark with older seniority in accordance with section 10 in conjunction with section 9,
 3. because of its registration for an agent or representative of the trade mark proprietor in accordance with section 11, or
 4. because of a trade mark not registered with older seniority in accordance with section 4 No. 2 or of a commercial designation with older seniority in accordance with section 5 in conjunction with section 12.
- (3) (repealed)

Objection of insufficient use, decision on the opposition

43. - (1) If the opposition has been lodged by the proprietor of a registered trade mark with older seniority, he/she shall, if the other party disputes the use of the trade mark, make a plausible case that he/she, within the last five years prior to the publication of the registration of the trade mark which is targeted by the opposition, has been used in accordance with section 26 insofar as it has been registered for at least five years at this point in time. If the period of five years of non-use ends after the publication of the registration, the opponent, if the other party disputes the use, must make a plausible case that the trade mark has been used in accordance with section 26 within the past five years prior to the decision on the opposition. Only those goods or services shall be taken into consideration in the decision with respect to which a plausible case has been made for use.
- (2) If the examination of the opposition reveals that the trade mark is to be cancelled for all or part of the goods or services in respect of which it is registered, the registration shall be cancelled in full or in part. If the registration of the trade mark cannot be cancelled, the opposition shall be refused.
- (3) If the registered trade mark is to be cancelled because of one or several trade marks with older seniority, the proceedings on further objections may be suspended until a decision has been handed down with legal force on the registration of the trade mark.
- (4) Section 52 subs. 2 and 3 shall be applied mutatis mutandis in the event of cancellation in accordance with subs. 2.

Domestic representative

96. - (1) Any person who has neither their residence nor principal place of business nor an establishment in Germany may participate in the proceedings before the German Patent and Trade Mark Office or the Federal Patent Court which are regulated under this Act and assert the rights deriving from a trade mark only if he has appointed as his representative a lawyer or patent attorney who is authorised and empowered to represent him in proceedings before the German Patent and Trade Mark Office, before the Federal Patent Court and in civil litigation affecting this trade mark, as well as to file motions for criminal prosecution.
- (2) The place where a representative appointed pursuant to subsection (1) has his commercial premises shall be deemed, within the meaning of section 23 of the Code of Civil Procedure, to be the place where the asset is located; if there are no such commercial premises, the place where the representative is residing in Germany shall be decisive or, if there is no such place, the place where the German Patent and Trade Mark Office has its seat.
- (3) The legal termination of the appointment of a representative in accordance with subsection (1) shall not become effective until the German Patent and Trade Mark Office or the Federal Patent Court has been informed of both the termination of this appointment and the appointment of another representative.

Application of the provisions of this Act; language

107. (1) The provisions of this Act shall be applied mutatis mutandis to the international registration of trade marks in accordance with the Madrid Agreement Concerning the International Registration of Marks (Madrid Agreement on Marks) carried out through the intermediary of the Patent Office or whose protection covers the territory of the Federal Republic of Germany unless provided otherwise in this Chapter or in the Madrid Agreement on Marks.
- (2) All and any applications, as well as other communications in the proceedings for international registration and the list of goods and services, shall be submitted in either French or English, at the choice of the applicant.

Opposition

114. - (1) The publication of the registration (section 41) for internationally-registered trade marks shall be substituted by publication in the Information Notice published by the International Bureau of the World Intellectual Property Organisation.
- (2) The time limit to lodge the opposition (section 42 subs. 1) against the granting of protection for internationally-registered trade marks shall commence on the first day of the month following the month stated as the issue month of the edition of the Information Notice containing the publication of the internationally-registered trade mark.
- (3) Refusal of protection shall take the place of the cancellation of the registration (section 43 subs. 2).



Extract from the Trade Mark Ordinance version of 11 May 2004

Section 46 Refusal of Protection

- (1) Where protection is, in full or in part, refused to an international registration the protection of which has been extended to the territory of the Federal Republic of Germany under Article 3ter of the Madrid Agreement or under Article 3ter of the Protocol Relating to the Madrid Agreement, and where this refusal is communicated to the International Bureau of the

World Intellectual Property Organization to be transmitted to the proprietor of the international registration, the time limit for appointing a representative in Germany shall, to avoid final refusal, be fixed to four months from the date on which notification of refusal was dispatched by the International Bureau of the World Intellectual Property Organization.

(2) Where the refusal of protection has become final because the proprietor of the international registration has failed to appoint a representative in Germany, a special motion (*Erinnerung*) or an appeal from the refusal shall be filed with the German Patent and Trade Mark Office within one further month after the time limit under subsection (1). Instructions about the proprietor's right to appeal shall be attached to the refusal. Section 61(2) of the Trade Mark Act shall apply *mutatis mutandis*.

| | | |
|--------------------|---|---|
| still X. | <p>Supplementary box grounds for refusal – <i>item V</i> –</p> <p style="text-align: center;">International Trade Mark 1 428 386</p> <p>The company (companies) mentioned below has (have) lodged opposition to the admission of the trade mark because of earlier national or international application or registration of its (their) trade mark(s) listed below (Sec. 119, 124, 114, 42 Trade Mark Law; Art. 5 Protocol Relating to the Madrid Agreement; Art. 6 quinquies B Paris Convention):</p> <p>1 Sky International AG EM009735689</p> <p>Stockerhof, Dreikönigstrasse 31a</p> <p>CH-8002 Zurich</p> <p>SUIZA</p> <div style="text-align: center;">  </div> <p>2 Sky International AG EM014893176 SKY</p> <p>Stockerhof, Dreikönigstrasse 31a</p> <p>CH-8002 Zurich</p> <p>SUIZA</p> <p>Note</p> <p>If no representative has been appointed within the provisional time limit of the first four months, this fact constitutes in itself a ground for refusal after the notification concerning the refusal of protection has become final (Sec. 119, 96 Trade Mark Law)</p> | |
| XII. | <p>Annexes (crossed off below)</p> <p><input checked="" type="checkbox"/> 1 reproduction of 1 opposed trade mark including a figurative element or a special graphic design</p> <p><input checked="" type="checkbox"/> List specifying the registration number as well as the relevant goods/services in respect of each opposed trade mark</p> <p><input type="checkbox"/> List of professional representatives</p> <p><input type="checkbox"/> List of goods/services</p> | <p>XI. Signature or official seal of the administration which pronounced the refusal</p> <div style="text-align: center;">  </div> |

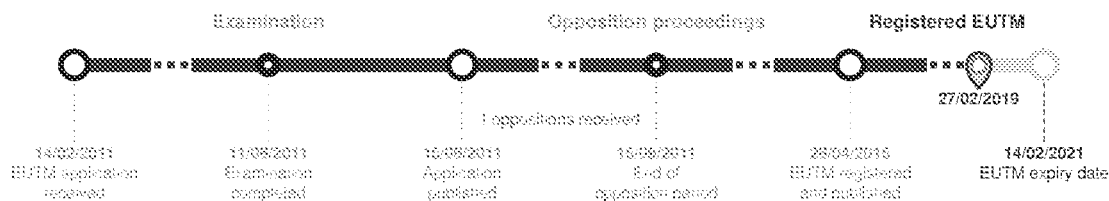


Protect your intellectual property in the European Union

EUTM file information

SKY
009735689

Timeline



Trade mark information

| | | | |
|-----------------------|---|--------------------------|----------------------|
| Name | SKY | Filing date | 14/02/2011 |
| Filing number | 009735689 | Registration date | 25/04/2015 |
| Basis | EUTM | Expiry date | 14/02/2021 |
| Date of receipt | 14/02/2011 | Designation date | |
| Type | Figurative | Filing language | English |
| Nature | Individual | Second language | Italian |
| Nice classes | 7, 9, 16, 28, 35, 36, 38, 41, 42, 45 (Nice Classification) | Application reference | JAB/CUB/25451 |
| Vienna Classification | 27.05.22, 27.99.11, 27.99.19, 27.99.25 (Vienna Classification) | Trade mark status | Registered |
| | | Acquired distinctiveness | No |

Graphic representation



Goods and services

English (en)

7 Electrical and electronic equipment for use in the generation of alternative energy including wind power, hydroelectric power, tidal power, geothermal power, solar power, biomass, and biofuels.

9 Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus; including data storage apparatus and instruments, software and data storage software, and software for video-conferencing, but excluding car batteries; radio, television, sound recording, sound reproducing, telecommunications and teaching apparatus and instruments; apparatus for recording television programmes; apparatus for reproduction of sound, images or audio visual content; electrical and electronic apparatus for use in the reception of satellite, terrestrial or cable broadcasts; televisions; LCD and plasma screens; home cinema systems; amplifiers; speakers; radios; wireless audio and/or audio visual devices; portable wireless audio and/or audio visual devices; remote controls; games controllers; wireless gaming controllers; wireless keypads; television receivers including a decoder; set-top boxes; digital set-top boxes; high definition set-top boxes; personal video recorder; set-top boxes for use in decoding and reception of satellite, terrestrial and cable broadcasts; apparatus for decoding encoded signals including set-top boxes for television reception; set-top box apparatus including a decoder and an interactive viewing guide; set-top box apparatus including a decoder and a recorder for recording television and audio programmes; set-top box apparatus including a decoder and a recorder programmable to transfer stored recordings to storage and also to delete the older recordings; satellite dishes; low noise blocks; satellite meters; computer software to enable searching of data; encoded programs for computers and for data processing and telecommunications; telephones; mobile telephones; PDAs; telephone and radio modems; television receivers including a decoder; set-top boxes for use in decoding and reception of satellite, terrestrial cable and digital subscriber line (DSL), Internet or other electronic broadcasts; apparatus for decoding encoded signals; recorded television and radio programmes; recorded programmes for broadcasting or other transmission on television, radio, mobile telephones, PDAs and on PCs; video recordings; multimedia apparatus and instruments; portable or hand-held computers; DVD players; computers; computer hardware; computer hardware, apparatus and instruments all for transmitting, displaying, receiving, storing and searching electronic information; computer programs; electronic computer games; electronic interactive computer games; computer software; computer software and telecommunications apparatus to enable connection to databases and the Internet; computer software supplied from the Internet; network termination equipment; wired and/or wireless computer network routers, modems, firewalls and/or bridges; computer software and computer programs for distribution to, and for use by, viewers of a digital television channel for the viewing and purchase of goods and services; computer games software and computer quiz software; computer video games and/or quizzes adapted for use with television receivers and screens or with video monitors or with computer screens; computer programs for interactive television and for interactive games and/or quizzes; electronic apparatus adapted for use with television receivers in playing games; games consoles; interactive video game devices comprised of computer hardware and software and accessories, namely game consoles, game controllers and software for operating game controllers; portable and/or hand-held electronic devices for interactive computer and video games; portable and/or hand-held electronic devices for receiving, playing and transmitting music, sounds, images, text, signals, information and code; electronic publications; computer games; computer video games; video screens; video projectors; tapes, discs and wires, all being magnetic; cassettes and cartridges, all adapted for use with the aforesaid tapes; blank and pre-recorded audio and video cassettes, tapes and cartridges; compact discs; DVD discs; phonographic records; laser readable discs for recording sound or video; ROM cartridges, CD ROMs, cards and discs, integrated circuit cards, memory carriers, recording media, all pre-recorded with computer video games and/or quizzes; encoded cards; radio and television signal antennae; music, sounds, videos, images, text and information provided by a telecommunications network, by on-line delivery and by way of the Internet and/or the world-wide web or other communications network; interactive sound and/or audio recordings; music, video, sound and/or audio recordings (downloadable) provided from MP3 Internet websites; MP3 players, MP3 readers; audio and/or video file recorders and/or players; portable audio and/or video file recorders and/or players; telephone ring tones (downloadable); apparatus and instruments for the reception of radio and television broadcasts including the reception of cable, satellite and digital broadcasts; smart cards; credit cards; loyalty cards; acoustic apparatus or instruments; adaptors; aerials; antennae; amplifiers; amusement apparatus and instruments adapted for use with an external display screen or monitor; communication apparatus and instruments; encoded or magnetic banking or credit cards; cinematographic film; cinematographic instruments and apparatus; data carriers; data storage apparatus, equipment and instruments; electrical telecommunications and/or communications and/or broadcast and/or transmission and/or decoding and/or image processing and/or audio visual instruments and apparatus; electronic telecommunications and/or communications and/or broadcast and/or transmission and/or decoding and/or image processing and/or audio visual instruments and apparatus; film reproducing instruments and apparatus; hand held electrical telecommunications and/or communications and/or broadcast and/or transmission and/or decoding and/or image processing and/or audio visual instruments and apparatus; interactive educational or entertainment games for use with television receivers and video apparatus; mobile telephones; motion pictures; telephone apparatus and equipment; parts and fittings for all the aforesaid goods; sunglasses, leather cases for holding mobile phones; e-sell through products, namely downloadable media content, including video and films, television programmes, computer games, music, images and ring tones provided by internet, telephone line, cable, wireless transmission, satellite or terrestrial broadcast service; cases, containers, protective coverings and parts and fittings therefor, all for use with MP3 players, music storage devices, media storage devices and other consumer electronic devices; electrical, electronic and computer equipment for machinery for use in conservation, generation and efficient use of heat, light and water, including thermostatic controls, solar panels for electricity generation, photovoltaic devices, solar cells turbines and motion detectors; computer equipment for use in the generation of alternative energy including wind power, hydroelectric power, tidal power, geothermal power, solar power, biomass, and biofuels; control and monitoring equipment for use in the generation of alternative energy including wind power, hydroelectric power, tidal power, geothermal power, solar power, biomass, and biofuels; automated control apparatus for local management of lighting, heating and water supplies; electronic publications (downloadable), including electronic publications, magazines and newsletters regarding environmental protection, energy conservation and ecology, animal welfare and renewable energy projects, including wind power, hydroelectric power, tidal power, geothermal power, solar power, biomass, and biofuels; apparatus and instruments for closed circuit television and surveillance systems; apparatus and instruments for personal security monitoring; apparatus and instruments for home security monitoring and control; home and personal security apparatus; home and personal security devices; home and personal security alarms; electronic protection equipment, including fire detecting and alarm equipment, intruder and burglar alarm equipment and motion detecting equipment; radio, telephonic, television and signalling apparatus and instruments, cameras, sound and video monitoring and recording and sound and video reproducing apparatus and instruments, all for control and telemetry purposes for the home and personal security; closed-circuit television systems (CCTV); monitors; cameras; optical lenses;

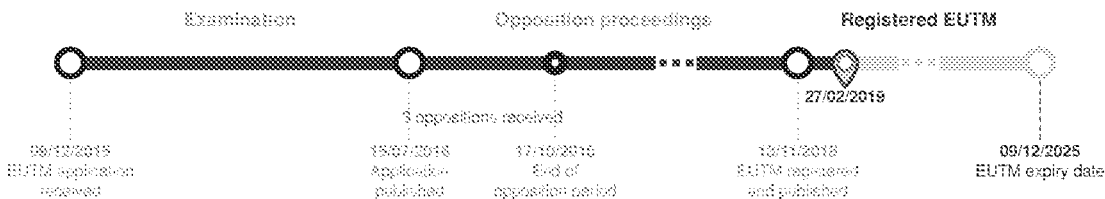


Protect your intellectual property in the European Union

EUTM file information

SKY
014893176

Timeline



Trade mark information

| | | | |
|-----------------------|---|--------------------------|----------------|
| Name | SKY | Filing date | 09/12/2015 |
| Filing number | 014893176 | Registration date | 09/11/2018 |
| Basis | EUTM | Expiry date | 09/12/2025 |
| Date of receipt | 09/12/2015 | Designation date | |
| Type | Word | Filing language | English |
| Nature | Individual | Second language | Italian |
| Nice classes | 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 16, 17, 18, 20, 21, 24, 25, 26, 27, 28, 29, 30, 31, 32, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45 (Nice Classification) | Application reference | SIAG/NS/028022 |
| | | Trade mark status | Registered |
| Vienna Classification | | Acquired distinctiveness | No |

Goods and services

English (en)

3 Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices; abrasive paper; abrasives; adhesives for affixing false eyelashes; adhesives for affixing false hair; adhesives for cosmetic purposes; after-shave lotions; air fragrancing preparations; almond milk for cosmetic purposes; almond oil; almond soap; aloe vera preparations for cosmetic purposes; alum stones [astringents]; amber [perfume]; ammonia [volatile alkali] [detergent]; antiperspirant soap; antiperspirants [toiletries]; antistatic preparations for household purposes; aromatics [essential oils]; astringents for cosmetic purposes; badian essence; balms other than for medical purposes; bases for flower perfumes; bath salts, not for medical purposes; beard dyes; beauty masks; bergamot oil; bleaching preparations [decolorants] for cosmetic purposes; bleaching salts; bleaching soda; breath freshening sprays; breath freshening strips; cake flavourings [essential oils]; cakes of soap; canned pressurized air for cleaning and dusting purposes; carbides of metal [abrasives]; cleaning chalk; cleaning preparations; cleansing milk for toilet purposes; cloths impregnated with a detergent for cleaning; cobblers' wax; colorbrightening chemicals for household purposes [laundry]; color-removing preparations; colorants for toilet purposes; corundum [abrasive]; cosmetic creams; cosmetic dyes; cosmetic kits; cosmetic pencils; cosmetic preparations for baths; cosmetic preparations for eyelashes; cosmetic preparations for skin care; cosmetic preparations for slimming purposes; cosmetics; cosmetics for animals; cotton sticks for cosmetic purposes; cotton wool for cosmetic purposes; decorative transfers for cosmetic purposes; degreasers other than for use in manufacturing processes; dental bleaching gels; dentifrices; denture polishes; deodorant soap; deodorants for human beings or for animals; deodorants for pets; depilatories; depilatory wax; detergents other than for use in manufacturing operations and for medical purposes; diamantine [abrasive]; disinfectant soap; douching preparations for personal sanitary or deodorant purposes [toiletries]; dry-cleaning preparations; dry shampoos; drying agents for dishwashing machines; eau de cologne; emery; emery cloth; emery paper; essential oils of cedarwood; essential oils of citron; essential oils of lemon; ethereal essences; ethereal oils; extracts of flowers [perfumes]; eyebrow cosmetics; eyebrow pencils; fabric softeners for laundry use; false eyelashes; false nails; flavorings for beverages