



**ESTONIAN PATENT OFFICE**  
**TRADEMARK DEPARTMENT**

**THE PROTOCOL RELATING TO THE MADRID AGREEMENT  
CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS**

**NOTIFICATION OF *EX OFFICIO* PROVISIONAL REFUSAL**

notified to the International Bureau of the World Intellectual Property Organization (WIPO)  
according to Article 5 of the Madrid Protocol

I. Name and address of the office refusing protection:

**The Estonian Patent Office**  
**Trademark Department**  
**Toompuiestee 7**  
**15041 Tallinn**  
**ESTONIA**  
**Telephone: + 372 715 1735**

II. Number of the international registration which is the subject of the provisional refusal:

**1413737**

III. Other information concerning the international registration which is the subject of the provisional refusal:

Verbal elements of the mark: **IDEAL PLANTS**

IV. The grounds for this provisional refusal are the following:

The trademark cannot be protected, because the word combination IDEAL PLANTS is devoid of any distinctive character regarding the services named in the list of goods and services. The trademark consists of indication, which may serve, in trade, to designate the characteristics of the services. It denotes that the purpose of the services is to develop and research plants that have ideal characteristics.

V. Provision of the Estonian Trademark Act applicable on the subject (enclosed):  
Section 9 subsections 1(2) and 1(3).

VI. The ground referred to in item IV. affects all the services.

VII. The owner of the registration may request a review of the provisional refusal. The request shall be received by Estonian Patent Office no later than within 4 months from the date of the provisional refusal.

The time limit expires **30/08/2019** (dd/mm/yyyy).

**The request has to be filed through the authorized patent attorney of the Republic of Estonia** (section 13 subsection 2 of the Estonian Trademark Act). List of patent attorneys is available at <http://www.epa.ee/>

**Please note** that if the owner of the registration fails to respond by the due date, the

registration shall be deemed to be withdrawn for goods and services mentioned in item VI (section 38 subsection 2 of the Estonian Trademark Act). The owner may request that processing be resumed (section 47 subsection 3 of the Estonian Trademark Act).

**Please note** that if the mark is protected subsequent to reviewal of the provisional refusal an interested person may contest the owners right to a trade mark within two months as of the publication of the trade mark (section 41 subsection 2 of the Estonian Trademark Act).

VIII. Date on which the provisional refusal was pronounced: 30/04/2019 (dd/mm/yyyy).

IX. Signature of the Office:

Jana Redkin  
Senior Examiner

Number of continuation sheets: 1

## **Extract from the Trade Marks Act**

### **§ 9. Absolute circumstances which preclude legal protection**

- (1) Legal protection is not afforded to the following signs:  
2) signs which are devoid of any distinctive character;  
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]  
3) signs which consist exclusively of signs or indications which designate the kind, quality, quantity, intended purpose, value or geographical origin of the goods or services, the time of production of the goods or of rendering of the services, or other characteristics of the goods or services;  
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

### **§ 13. Representative for performing acts related to legal protection of trade marks**

- (2) A person with no residence, seat or commercial or industrial enterprise operating in Estonia shall authorise a patent attorney as the person's representative to perform procedures related to trade marks at the Patent Office and at the Board of Appeal, except the filing of an application.

### **§ 38. Examination of trade marks**

- (2) If an examination reveals circumstances which preclude the legal protection of a trade mark, the Patent Office shall notify the applicant thereof and set a term of at least two months for eliminating said circumstances or giving explanations. If the applicant fails to respond within the set term, the application is deemed to be partially or fully withdrawn.

### **§ 41. Adjudication of appeals and revocation applications**

- (2) An interested person may contest an applicant's right to a trade mark at the Board of Appeal if any circumstances specified in subsection § 10 of this Act which preclude legal protection exist. The term for filing a revocation application is two months from the publication of the notice of the decision to register a trade mark.

### **§ 47. Withdrawal of applications, termination and resumption of processing**

- (3) An applicant may request that processing be resumed if the Patent Office terminated processing having deemed the application to be partially or fully withdrawn pursuant to subsection 37 (3) or 38 (2) of this Act.

### **§ 69. Effect of international registration**

- (1) Legal protection arising from an international registration valid in Estonia is equal to legal protection arising from a national registration and the rights and obligations arising from an internationally registered trade mark are equal to those arising from a nationally registered trade mark.