

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


Danish Patent  
and Trademark Office

Helgesøvej Allé 31  
DK-2630 Taastrup  
(Postal address)

Finsensvej 1F  
DK-7430 Ikast

Tel : +45 43 50 80 00  
E-mail : [pvst@dkpts.dk](mailto:pvst@dkpts.dk)  
Web : [www.dkpto.dk](http://www.dkpto.dk)  
CVR-nr. : 17 03 94 15

Ministry of Industry, Business  
and Financial Affairs

 Partner  
Nordic patent institute

Our ref: MP1310671  
International Registration: 1310671  
Holder: Ecolab USA Inc.  
Mark: SOLIDPOWER  
**Time limit:** 1 November 2019

1 July 2019

Dear Madam/Sir

#### Notification of Partial Provisional Refusal of IR 1310671 according to Rule 17(2)

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

- Class 01:** Chemical products used in industry; detergents for use in industrial and manufacturing processes; cleaning compositions for industrial purposes; chemical products used in ware washing processes; water treatment chemicals; chemical degreasing agents.
- Class 03:** Warewashing detergents; presoaks; rinses (detergents); rinse additives for dishwashing machines; cleaning, polishing, scouring and abrasive preparations for cutlery, crockery, dishes and cookware.
- Class 05:** Disinfectants and sanitizers for warewashing.

The reasons for the refusal are given in the enclosed examination report. The holder may request a review of the refusal before **1 November 2019**. Further information about procedures is found in the report.

Yours faithfully

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

## Examination Report

### Grounds for refusal

#### Descriptiveness

We have found that the mark is descriptive in relation to the above-mentioned goods.

The mark consists of the word element SOLIDPOWER. According to online version of the dictionary Merriam-Webster, the word SOLID can, among other things, refer to something being *of good substantial quality or kind*, according to the online version of the dictionary LEXICO the word can refer to something being *dependable or reliable*, whereas the common word POWER, in this particular case, can be understood as a reference to the strong effectiveness of the products.

Taken as a whole, the expression SOLIDPOWER may serve to designate the quality of the goods, since the expression immediately informs the relevant public that the refused goods, such as 'detergents for use in industrial and manufacturing processes' (class 01), 'warewashing detergents' (class 03) or 'disinfectants and sanitizers for warewashing' (class 05), contain the characteristics of being strong/effective and reliable and/or of good substantial quality.

Similarly, we have previously refused the follow marks as they were considered as descriptive, since they are able to designate the quality of the goods:



VA 2018 00649 - The mark was refused for goods such as 'Firelighters for grills' in class 4, because the mark taken as a whole may indicate a quality of the goods, namely that the user, using the goods will achieve a quick glow.

VA 2016 02479 - PROF CARE - The mark was refused for different goods in class 03, 05, 10, 25 and 28 as well as some services in class 35. PROF. is in the Danish abbreviation for professional. The word CARE can be used for maintenance, see e.g. Longman's Online Dictionary of Contemporary English (meaning 4). The word element means professional care / maintenance. This can mean that the care etc. is done professionally or it can be care of professionals. The word CARE has a broad meaning, and in addition to care can also indicate protection of e.g. health.

VA - 2013 01564 ECO CLEAN - The mark consists of the English words "Eco" and "Clean". When ECO is used as a prefix, it can mean "ecology" and "ecological", cf. [www.collinsdictionary.com](http://www.collinsdictionary.com). Combined, your brand can therefore indicate that this is an organic cleaning. Your mark will therefore be descriptive of the product "Bleaching agents and other laundry detergents", as the label may indicate that the funds can be used for organic cleaning of clothes.

We refer to Section 13(1)(3) of the Danish Trademarks Act.

Please be informed that the Danish Trade Marks Act Section 13(2) allows for the registration of marks, which have acquired distinctiveness through use.

#### The list of goods and services

We have found that some of the goods in the list of goods and services are too vague, cf. the Danish Trade Marks Act, Section 12. According to the Danish Trade Mark Act and the ruling of the ECJ in C-418/02, a trademark application must contain a precise list of the goods and services covered by the registration of the mark.

The following terms are considered too vague:

**Class 03**      presoaks.

The good is considered imprecise and thus the term is too vague, since it is indefinable which goods the term actually refers to. The term is considered imprecise, as the present wording does not refer to a product or good, but rather an action - in this connection we refer to the definition of 'presoak' recorded in the online dictionary Merriam-Webster. It is the office's belief that the term refers to a type of detergent or soap that used in conjunction with, for example, soaking of plates or other types of kitchenware. In case this is correct, we suggest that you e.g. specify the term to *preparations for soaking, used in connection with dishwashing* in class 03.

We must also point out that the term has already been refused in connection with the assessment of the distinctiveness of the mark. We will therefore only you need to clarify the term in case you can overcome the obstacle in relation to the distinctive character of the mark.

### **Earlier rights**

We have conducted a search in the relevant registers for earlier trademarks rights with validity in Denmark. The result of the search appears in the attached search report. It includes marks which we have found to be in risk of confusion with the designation.

When the designation is published, there is a two-month period for earlier rights holders to file an opposition against the designation. Oppositions may also be based on other rights, e.g. rights established through use. We usually receive oppositions in 5-10 % of all trademark applications.

### **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 should 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, 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 and services, namely:

- Class 09:** Measuring apparatus; dosing apparatus and instruments; computerized apparatus and instruments for controlling measuring apparatus and dosing apparatus and instruments; computer software for the aforementioned goods.
- Class 37:** Installation, repair and maintenance of warewashing machines and dishwashers and control-systems.

**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: Guide concerning Confusingly Similar Marks

Appendix B: Abstract of the Danish Trade Marks Act

## **Search Report**

Our search has disclosed the following trademark rights:

Trademarks: EU001217835, EU001489269, EU010596039.

For further information, see the attached extracts from the register.

## Appendix A

### Guide concerning Confusingly Similar Trademarks

The Danish Patent and Trademark Office has searched for marks applied for or registered in the Danish territory, which are confusingly similar to your trademark. We have assessed whether there is a likelihood of confusion between the marks, i.e. whether the marks are similar visually as well as phonetically and whether the goods and services covered by your application are identical with or similar to those covered by the earlier right. **We refer to the Danish Trade Marks Act, section 15, containing rules concerning identical and confusingly similar trademarks.**

If we have found conflicting marks we have included a search report as well as extracts of our register of any confusingly similar marks.

If we have found earlier rights you may consider the following options:

- to register your mark irrespective of the earlier right - or
- to limit the list of goods and services in order to avoid that your application covers goods and services similar to those covered by the earlier right - or
- to obtain a letter of consent from the proprietors of the earlier right permitting you to make use of and register your trademark in Denmark.

If we do not hear from you before the expiration of the time limit mentioned in our letter, we will register your trademark irrespective of the earlier rights, if any, mentioned in the search report.

#### Registration

Please be informed that the proprietor of the earlier right can file an opposition against the registration of your trademark if you choose to have your trademark registered irrespective of the earlier right.

#### Limitation

If the earlier right does not cover all the goods and services, for which your trademark is applied, you can limit your application in order to avoid that your application covers goods and services similar to those covered by the earlier right. You must file a new list of goods and services, if you wish to limit your application. Please be informed that we can assist you in connection with the wording of such a list.

#### Written consent

A written consent must be unconditional, and it must permit you to register the applied trademark for the goods and services covered by the application. If the consent does not include all goods and services applied for, you must limit your application in accordance with the consent. The letter of consent must be dated and duly signed by the proprietor of the earlier right. We can only accept a copy, if it is attested.

## **Appendix B**

### **Abstract of the Danish Trade Marks Act**

#### *Signs of which a trade mark may consist*

#### **Section 2**

A trade mark may consist of any signs, in particular words, including personal names, or designs, letters, numerals, colours, the shape of goods or of the packaging of goods, or sounds, provided that such signs are capable of:

- i) distinguishing the goods or services of one undertaking from those of other undertakings; and
- ii) being represented on the register in a manner which enables the competent authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor.

#### *Application and registration of trade marks*

#### **Section 11**

- (1) An application for the registration of a trade mark shall be filed with the Patent and Trade mark Office. The application shall contain information in accordance with the provisions laid down pursuant to section 48. The application fee prescribed by section 60(a)(1) shall be paid.

#### **Section 12**

- (1) The goods and services in respect of which trade mark registration is applied for shall be classified in conformity with the Nice Classification. Where the applicant requests registration for more than one class, the applicant shall group the goods and services according to the classes of the Nice Classification, each group being preceded by the number of the class to which that group of goods or services belongs, and shall present them in the order of the classes.
- (2) The goods and services for which protection is sought shall be identified by the applicant with sufficient clarity and precision to enable the Office and economic operators, on that sole basis, to determine the extent of the protection sought.
- (3) The general indications included in the class headings of the Nice Classification or other general terms may be used, provided that they comply with the requisite standards of clarity and precision set out in this provision.

#### *Examination of applications*

#### **Section 16**

- (1) If the application does not comply with this Act or the provisions laid down pursuant to this Act, or if the Patent and Trade mark Office has other objections to the acceptance of the application, the Patent and Trade mark Office shall notify the applicant accordingly and invite him to file his observations within a specified time limit.

### **Section 13**

(1) The following shall not be registered:

- (i) Signs which cannot constitute a trade mark.
- (ii) Trade marks which are devoid of any distinctive character.
- (iii) 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, or the time of production of the goods or of rendering of the service, or other characteristics of the goods or services.
- (iv) Trade marks which consist exclusively of signs or indications which have become customary in the current language or in the bona fide and established practices of the trade.

(2) A trade mark shall not be excluded from registration in accordance with paragraph 1(2)-(4), if, before the date of application for registration, following the use which has been made of it, it has acquired a distinctive character.

### **Section 14**

Furthermore, the following shall not be registered:

- 1) signs which consist exclusively of:
  - a) the shape, or another characteristic, which results from the nature of the goods themselves,
  - b) the shape, or another characteristic, of goods which is necessary to obtain a technical result,
  - c) the shape, or another characteristic, which gives substantial value to the goods.
- 2) Trade marks which are contrary to law, public order or morality.
- 3) Trade marks which are liable to mislead the public, for instance as to the nature, quality or geographical origin of the goods or services.
- 4) Trade marks 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 trade marks which include badges, emblems and escutcheons which are of public interest, unless the consent of the appropriate authority to their registration has been given.
- 5) Trade marks which are excluded from registration pursuant to Union legislation or the national law of the Member State concerned, or to international agreements to which the Union or the Member State concerned is party, providing for protection of designations of origin and geographical indications.
- 6) Trade marks which are excluded from registration pursuant to Union legislation or international agreements to which the Union is party, providing for protection of traditional terms for wine.
- 7) Trade marks which are excluded from registration pursuant to Union legislation or international agreements to which the Union is party, providing for protection of traditional specialities guaranteed.
- 8) Trade marks which consist of, or reproduce in their essential elements, an earlier plant variety denomination protected by plant variety sort rights and which are in respect of plant varieties of the same or closely related species.



**Registerudskrift**  
(Extract of Register)

**OHIM status: Registered**

(210) Sagsnummer	:	EU001217835	(151) EU registration date:	2004-06-30
			(442) EU publication date:	2000-01-24
			(220) EU date of filing:	1999-06-23
(730) Indehaver	:	Dr. Grandel GmbH Pfladergasse 7-13 86150 Augsburg 86150 Tyskland		
(740) Fuldmægtig	:	PATENT- UND RECHTSANWÄLTE ULLRICH & NAUMANN		
(750) Adresse	:	PARTNERSCHAFTSGESELLSCHAFT MBB Schneidmühlstraße 21 69115 Heidelberg 69115 Tyskland		
(540) Mærke	:	SOLID		
(550) Mærketype	:	Ordmærke		
(511) Klasser og Varefortegnelse	:	Klasse 01: Kemiske produkter til industrielle formål, særlig grundstoffer, råstoffer, hjælpe- og virkemidler på basis af naturstofkoncentrater henholdsvis højkoncentrater af naturstof til fremstilling af medicinske og kosmetiske præparater.		
		Klasse 03: Kosmetisk aktive præparater (indeholdt i klasse 3).		
		Klasse 05: Lægemidler, farmaceutiske præparater samt præparater til sundhedspleje, førnævnte varer ikke i form af midler til behandling af urinvejssygdomme; diætiske næringsmidler til medicinske formål, kosttilskudspræparater til medicinske formål, plastre og forbindsstoffer.		

Udskrift slut  
(End of Extract)

**Registerudskrift**  
(Extract of Register)

**OHIM status: Registered**

(210) Sagsnummer : EU001489269 (151) EU registration date: 2002-10-23  
(442) EU publication date: 2002-04-15  
(220) EU date of filing: 2000-02-03

(730) Indehaver : International Business Machines Corporation  
New Orchard Road  
10504  
Armonk,  
10504  
New York  
USA

UNICOM Systems, Inc.  
UNICOM Plaza, Suite 310, 15535 San Fernando Mission Blvd.  
91345  
Mission Hills  
91345  
California  
USA

(740) Fuldmægtig : Sylvie Martin  
(750) Adresse : IBM France Intellectual Property Department ZAC MERIDIA Immeuble The Crown 21  
Avenue Simone Veil CS 43338  
06206  
NICE CEDEX  
06206  
Frankrig

DEHNS  
St Bride's House, 10 Salisbury Square  
EC4Y 8JD  
London  
EC4Y 8JD  
Storbritannien

(540) Mærke : SOLID

(550) Mærketype : Ordmærke  
(511) Klasser og Varefortegnelse : Klasse 09: Software til brug ved opbevaring, styring og distribution af information, data og software i og mellem lokale og distribuerede databutikker; databehandlingsudstyr og computere; udstyr til indlæsning af data, udstyr til udlæsning af data, udstyr til lagring af data og datatransmissionsudstyr; computerprogrammer og databaser; computerhardware og -software inklusive computersoftware i form af programmer til netværk og til systemledelse samt til udvikling af nyt software; computerhardware og -software inklusive computersoftware til indlæsning af og søgning efter oplysninger på Internettet og world wide web; computerprogrammer til Internettet og World Wide Web; computerprogrammer distribueret online over Internettet og på nettet; computerprogrammer, der kan downloades fra globale computernetværk; computerhardware og -software, særlig til adgang til Internetsystemer og til brug af disse systemer; betjenings- og brugervejledninger lagret i digitalt format til computere og computersoftware, særlig på floppydisketter eller cd-rommer.

Klasse 42: Teknisk bistand i forbindelse med samt installation og vedligeholdelse af computersoftware.

Udskrift slut  
(End of Extract)

**Registerudskrift**  
(Extract of Register)

**OHIM status: Registered**

(210) Sagsnummer : EU010596039 (151) EU registration date: 2013-08-08  
(442) EU publication date: 2012-03-09  
(220) EU date of filing: 2012-01-19

(730) Indehaver : OHIM Interessent  
9999 Ukendt  
Mangler land  
  
Bundesdruckerei GmbH  
Kommandantenstraße 18  
10969  
Berlin  
10969  
Tyskland

(740) Fuldmægtig : JUNGBLUT & SEUSS  
(750) Adresse : Max-Dohrn-Str. 10  
10589  
Berlin  
Tyskland

(540) Mærke : SOLID

(550) Mærketype : Ordmærke  
(511) Klasser og : Klasse 09: Videnskabelige, fotografiske og optiske apparater og instrumenter samt  
Varefortegnelse apparater og instrumenter til måling, signalering og kontrol; Apparater og instrumenter til  
ledning, kobling, omformning, lagring, regulering og styring af elektricitet, apparater til  
registrering, overføring og gengivelse af data; Elektroniske, optiske og magnetiske  
databærere, især sikkerhedsdokumenter og/eller værdipapirer indeholdende en  
elektronisk, optisk eller magnetisk databærer, herunder pas, id-kort, kørekort, visa,  
opholdstilladelser, arbejdsrelateret legitimation, adgangstilladelser, billetter,  
skatterelaterede mærkater og banderoler; Elektroniske og/eller optiske apparater og  
instrumenter til testning og verificering af sikkerhedsdokumenter og/eller værdipapirer;  
Udelukkende elektroniske publikationer med undtagelse af elektroniske publikationer i  
forbindelse med sikkerheds- og/eller værdidokumenter.

Klasse 16: Papir og pap samt varer fremstillet heraf, ikke indeholdt i andre klasser;  
Tryksager; Fotografier; Tryktyper; Klichéer; Især sikkerhedsdokumenter og/eller  
værdipapirer uden elektroniske, optiske eller magnetiske databærere, herunder pas, id-  
kort, kørekort, visa, opholdstilladelser, arbejdsrelateret legitimation, adgangstilladelser,  
billetter, skatterelaterede mærkater og banderoler; Udelukkende undervisningsmanualer  
med undtagelse af undervisningsmanualer i forbindelse med sikkerheds- og/eller  
værdidokumenter.

Klasse 42: Videnskabelige og teknologiske tjenesteydelser samt forskning og design i  
forbindelse dermed; Industriel analyse og forskning; Design og udvikling af  
computerhardware og -software, herunder tilpasning af software; Alle førnævnte  
tjenesteydelser især i forbindelse med design, udarbejdelse, fremstilling, udstedelse,  
kontrol og verificering af sikkerhedsdokumenter og/eller værdipapirer; Udelukkende  
computerrådgivningstjenester og informationsteknologisk rådgivning med undtagelse af  
sådanne tjenesteydelser i forbindelse med sikkerheds- og/eller værdidokumenter.

Udskrift slut  
(End of Extract)