



World Intellectual Property
Organisation (WIPO)
International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

Your Reference:
International Registration No:
WO0000001485041
Examiner: Samantha Carter
Direct Telephone: +44(0)1633813724
Date: 11 September 2019

Please reply by **11 November 2019** quoting the International Registration number

Dear Sir/Madam

Intl Reg No: WO0000001485041
Mark: medbuy.online (Figurative)
Holder: MEDINDUSTRY (CYPRUS) LIMITED
Class: 35

Notification of a Provisional Partial Refusal of Protection (not based on an opposition) by the Intellectual Property Office

I have examined your designation under the Trade Marks Act 1994 and carried out a search of the relevant trade mark registers. Your designation does not appear to meet the requirements for Protection for the following reasons.

Retail

There is an objection under Section 1(1) and 3 (1)(a) against the following 'retail service'-type terms listed in your Class 35 specification:

"wholesale services for pharmaceutical, veterinary and sanitary preparations and medical supplies; retail services for pharmaceutical, veterinary and sanitary preparations and medical supplies"

These terms do not meet the legal criteria as set out by the Court of Justice of the European Union in the *Praktiker* case (see C-418/02). Our classification practice in respect of 'retail service'-type claims is set out in the current edition of the Trade Marks Manual (under the third section entitled 'The Examination Guide'). For more information on this practice, you can view the Manual via the following hyperlink (please note that the relevant section begins on page 200):

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/454221/Manual-of-trade-marks-practice.pdf

This objection may be overcome by amending the objectionable terms to the following:

*“wholesale services **connected with the sale of** pharmaceutical, veterinary and sanitary preparations and medical supplies; retail services **connected with the sale of** pharmaceutical, veterinary and sanitary preparations and medical supplies”*

Search for earlier trademarks – for your information only

I have searched the relevant trade mark registers and found an earlier trade mark that I think you should be aware of. My initial view is that your trade mark and your services are similar to the earlier trade mark and their services. Therefore, the public are likely to confuse your trade mark with the earlier trade mark. This earlier mark is shown at the end of this report.

I am not refusing to accept your designation because of the earlier trade mark. Should you decide to proceed with your designation, I will not inform the owners of the mark that your designation will be published in our online journal. We do not notify holders of European Union Trade Marks (EUTM) or International Registrations (EU), which also have protection in the UK; this is for your information only

If you proceed, your designation will be published in the online Trade Marks Journal and anyone can oppose your designation should they have grounds to do so. If such action were to be successful, this would likely result in a costs award against you. Further information can be found on our website:

ipo.gov.uk/tmoppose

Next steps

If you disagree with my assessment of your designation, you can write or telephone me. My contact details are shown at the top of this letter. You may respond by fax, post or email to: trademark.examination@ipo.gov.uk

If following this discussion, you still disagree with my findings you have the right to request a hearing with a senior officer to argue against the absolute grounds issues raised. You cannot request a hearing in respect of the earlier trademarks as these are not formal objections.

If your address is outside of the European Community, the Isle of Man or the European Economic Area, please provide us with a contact address in one of the above areas. This can be done by filling in and returning a Form TM33 “Appointment of change of Representative (for trade mark owners or holders)”. This form is available at: ipo.gov.uk/tmforms

If you do not reply by the date shown above, I will publish it in our online Trade Marks Journal for the following specification:

Class 35

“Administrative assistance in responding to requests for proposals [RFPs]; administrative assistance in responding to calls for tenders; administrative processing of purchase orders; administration of consumer loyalty programs; cost price analysis; auctioneering; outsourced administrative management for companies; book-keeping; web indexing for commercial or advertising purposes; accounting; negotiation of business contracts for others; market studies; opinion polling; invoicing; arranging newspaper subscriptions for others; payroll preparation; tax preparation; demonstration of goods; business inquiries; business management assistance; commercial or industrial management assistance; advisory services for business management; business research; economic forecasting; providing business information via a web site; compilation of information into computer databases; compilation of statistics; business information; business management for freelance service providers; business management of reimbursement programmes for others; interim business management; commercial information and advice for consumers in the choice of products and services; commercial administration of the licensing of the goods and services of others; computerized file management; marketing; marketing in the framework of software publishing; targeted marketing; marketing research; provision of commercial and business contact information; provision of an on-line marketplace for buyers and sellers of goods and services; writing of publicity texts; scriptwriting for advertising purposes; word processing; updating of advertising material; updating and maintenance of data in computer databases; updating and maintenance of information in registries; web site traffic optimization; organization of exhibitions for commercial or advertising purposes; organization of trade fairs for commercial or advertising purposes; rental of advertising space; personnel recruitment; business intermediary services relating to the matching of potential private investors with entrepreneurs needing funding; outsourcing services [business assistance]; commercial intermediation services; competitive intelligence services; layout services for advertising purposes; price comparison services; market intelligence services; procurement services for others [purchasing goods and services for other businesses]; gift registry services; wholesale services connected with the sale of pharmaceutical, veterinary and sanitary preparations and medical supplies; retail services connected with the sale of pharmaceutical, veterinary and sanitary preparations and medical supplies; data search in computer files for others; sponsorship search; search engine optimization for sales promotion; presentation of goods on communication media, for retail purposes; publicity material rental; rental of advertising time on communication media; rental of vending machines; rental of sales stands; direct mail advertising; psychological testing for the selection of personnel; publication of publicity texts; radio advertising; registration of written communications and data; advertising; pay per click advertising; outdoor advertising; advertising by mail order; on-line advertising on a computer network; document reproduction; bill-posting; distribution of samples; dissemination of advertising matter; design of advertising materials; systemization of information into computer databases; drawing up of statements of accounts; compiling indexes of information for commercial or advertising purposes; sales promotion for others; promotion of goods and services through sponsorship of sports events; production of teleshopping programmes; production of advertising films; transcription of communications [office functions]; television advertising;

telemarketing services; negotiation and conclusion of commercial transactions for third parties"

The provisional refusal of all other services will then become final.

Yours faithfully

Samantha Carter
Trade Marks Registry

Earlier Marks

1) Earlier Mark:

Trade Mark ID: EU014795661

Domain: EUTM

Mark Representation



Filing Date/Date of Designation

17/11/2015

Goods & Services

Class: 5

Hygienic preparations and articles; Medical and veterinary preparations and articles; Dental preparations and articles; Medical dressings, coverings and applicators.

Class: 35

Business analysis, research and information services; Business assistance, management and administrative services; Commercial trading and consumer information services; Advertising, marketing and promotional services; Auctioneering services; On-line auctioneering services via the Internet; Retail or wholesale services for pharmaceutical, veterinary and sanitary preparations and medical supplies; Procuring of contracts for the purchase and sale of goods; Arranging of contracts, for others, for the providing of services.

Class: 38

Telecommunication services; Broadcasting services; Computer communication and Internet access; Telephone services; Providing access to platforms and portals on the Internet; On-line communication services; Access to content, websites and portals; Providing Internet chatrooms and Internet forums.

Class: 41

Education, entertainment and sports; Publishing and reporting; Arranging, conducting and organisation of seminars; Arranging and conducting of seminars; Sports and fitness; Publication of printed matter and printed publications; Publication of printed matter in electronic form on the Internet; Training and further training consultancy; Conducting workshops [training]; Provision of training courses; Training in electrical engineering; Providing computer assisted courses of instruction.

Class: 42

Design services; IT services; Testing, authentication and quality control; Science and technology services; Medical and pharmacological research services; Building and maintaining websites; Preparation of data processing programmes; Hosting of databases; Maintenance of data bases; Hosting platforms on the Internet.

Class: 44

Human healthcare services; Human hygiene and beauty care; Mental health services; Medical services; Pharmaceutical services; Dentistry; Dietary and nutritional guidance; Acupuncture services; Health care consultancy services [medical]; Outpatient and inpatient care services; Nutritional advice; Information services relating to health care; Providing nutritional information about food; Autogenic training; Treatment of allergies; Weight control treatment; Monitoring of patients; Professional consultancy relating to health care; Convalescent homes; Health centers; Health clinic services; Consulting services relating to health care; Nursing homes; Fitness testing; Massage; Dietetic advisory services; Health counselling; Therapy services; Managed health care services; Professional consultancy relating to health; Health risk assessment surveys; Preparation of reports relating to health care matters; Rental of hospital equipment.

Owner/Holder Details

Name: Stefan Krieg

Address: An der Schleifmühle 35

Town: Marklohe

Postcode: 31606

Country: DE

Representative Details

Name: HORAK. RECHTSANWÄLTE PARTNERSCHAFT MBB

Address: Georgstr. 48

Town: Hannover

Postcode: 30159

Country: DE