

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

Danish Patent
and Trademark Office

Helgesøvej Allé 81
2630 Taastrup

Tel. : 43 50 80 00
Fax : 43 50 80 01
E-mail : pvs@dkpto.dk
Web : www.dkpto.dk
CVR-nr. : 17 03 94 15

Danish Ministry of Economic
and Business Affairs

 Partner
nordic patent institute

Our reference: MP1259963
Opposition number: 518742772
International Registration: 1259963
Your reference: I2238DKIP/PLK
Holder: MLADEGS PAK d.o.o.
Time Limit: 16 April 2020

16 December 2019

Dear Madam/Sir

Notification of Provisional Refusal Based on Opposition according to Rule 17(3)

An opposition against the validity of the above-mentioned designation of Denmark has been filed with the Danish Patent and Trademark Office by:

Fruit Shippers Limited
Third Floor, Charlotte House, Charlotte Street
P.O. Box
N-10051
Nassau,
,
Bahamas

Consequently, the mark is provisionally refused protection in Denmark **for all of the goods/services** covered by the designation.

Grounds for the opposition

The opponent has stated the following reasons for the opposition:

- Identity/risk of confusion with an earlier registered trademark, cf. Section 15(1) (see appendix for trade marks cited by the opponent)

We have enclosed a copy of the opposition.

Final decision and appeal

If we do not receive a request for review within the time limit, we will issue a final decision, which is subject to appeal to the Board of Appeal for Patents and Trademarks.

Further information

We have enclosed guidelines on our opposition procedures as well as an abstract of the relevant sections of the Danish Trade Marks Act. For further information about opposition procedures, please contact the examiner.

Yours faithfully

Cecilie Christensen
Examiner, Trademark and Design
Phone +45 4350 8415

Appendix

Guidelines on Oppositions

We deal with oppositions in two phases:

- The **hearing procedure** phase during which the holder and the opponent exchange arguments and documentation.
- The **decision** phase during which we review the arguments and documents and make a decision on this basis.

Hearing procedure

Both parties are entitled to put forth their opinions and arguments. The extent of the hearing depends on the complexity of the case and on whether we find the need for the case to be further elucidated.

It is the role of the Office to make sure that each party is allowed the opportunity to present their arguments. We also provide guidance on aspects, which we find relevant to the case.

Please be aware that any documents or evidence submitted to us will be available to the public according to the regulations of the Danish Access to Public Administration Files Act and in general be available to the public in PVSONline, under www.dkpro.dk. The material will also be sent to the opponent for comments according to the regulations of the Administration Act. Material such as samples and the like must be submitted in two specimens.

During the hearing, as a general rule, we do not make a review of whether the material submitted meets the requirements, which the claim e.g. about a well-known mark or a mark used in the course of trade, demand.

During the hearing, both parties must reply within the time limits laid down by the Office. A time limit may be extended, usually for one or two months, if deemed reasonable. Normally, we will not extend a time limit more than once.

If one of the parties informs the Office that negotiations for a settlement are taking place, we will suspend the hearing procedure for 6 months. As long as negotiations are ongoing, the opposition may remain suspended for 6 months at a time. The hearing may be resumed at any time, if one of the parties wishes so.

The decision

When we judge that the case is sufficiently elucidated, we inform both parties that the hearing procedure is finished and that the opposition is ready to be decided.

When we make the decision, we review and evaluate the arguments and the material submitted by the parties. We also undertake additional investigations including review earlier practice.

A decision including grounds is sent to both parties. We will also inform the party or parties ruled against about the means to appeal with the Danish Board of Appeal for Patents and Trademarks.

All opposition decisions are available on our website.

It must be noted that even though we make a decision in an opposition case, the Office can still refuse the designation if we receive new information on absolute grounds for granting the designation protection in Denmark.

Abstract of the Danish Trade Marks Act

(unofficial translation)

Relative grounds for refusal of registration

Section 15

- (1) On the basis of an opposition, a trademark shall not be registered or, if registered, shall upon request or upon judgement be liable to be declared invalid, where
 - (i) it is identical with an earlier trademark, and the goods or services for which the trademark is applied or registered are identical with the goods or services for which the earlier trademark is protected, or
 - (ii) there exists a likelihood of confusion on the part of the public including a likelihood of association with the earlier trademark, because the later trademark is identical with or similar to the earlier trademark and the goods or services are identical or similar.
- (2) For the purpose of subsection (1), earlier trademarks mean:
 - (i) Trademarks of the following categories in respect of which the date of application for registration is earlier than the date of application for registration of the trademark, taking account, where appropriate, of the priorities claimed in respect of those trademarks:
 - (a) EU trademarks, including EU trademarks which validly claim seniority, in accordance with the Regulation on EU trademarks, of a trademark referred to under (b) and (c), even when the latter trademark has been surrendered or has lapsed.
 - (b) Trademarks registered in this country.
 - (c) Trademarks registered under international agreements and having effect in this country.
 - (ii) Applications for trademarks referred to under (i), subject to their registration;
 - (iii) Trademarks which, on the date of application for registration of the trademark, or, where appropriate, of the priority claimed in respect of the application for registration of the trademark, are well known in this country, in the sense in which the words “well known” are used in Article 6bis of the Paris Convention.
 - (iv) Unregistered trademarks which are established according to Section 3(1)(3), when the right to the unregistered trademark was acquired prior to date of application for registration of the subsequent trademark according to Section 6.
- (3) Furthermore, on the basis of an opposition, a trademark shall not be registered or, if registered, shall be liable to be declared invalid where:
 - (i) The trademark is identical with, or similar to, an earlier trademark, irrespective of whether the goods or services for which it is applied or registered are identical with, similar to or not similar to those for which the earlier trade mark is protected, where the earlier trade mark has a reputation in this country in respect of which registration is applied for or in which the trademark is registered or, in the case of an EU trademark, has a reputation in the EU and the use of the later trademark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trademark.
 - (ii) An agent or representative of the proprietor of the trademark applies for registration thereof in his own name without the proprietor's authorisation, unless the agent or representative justifies his action.
 - (iii) To the extent that, pursuant to EU legislation or Danish law providing for protection of designations of origin and geographical indications,
 - (a) an application for a designation of origin or a geographical indication has already been submitted in accordance with EU legislation or Danish law prior to the date of application for registration of the trademark or the date of the priority claimed for the application, subject to its subsequent registration, or

- (b) the designation of origin or geographical indication confers on the person authorised under the relevant law to exercise the rights arising therefrom the right to prohibit the use of a subsequent trade mark.
- (iv) The trademark infringes a right to a company name, which is registered in the Danish Central Business Register (CVR). A trademark will infringe a right to a company name when the company name has more than just local character and
 - (a) the name and the trademark are similar, and the goods or services for which the company name has been used a sign prior to the application or a claimed priority are identical or similar to those of the trademark, and the use of the trademark would lead to a likelihood of confusion or association, or
 - (b) the use of the trademark without just cause will take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier company name, provided that the company name is used in relation to the goods or services and this use has resulted in the company name prior to the application for registration of the trademark or a priority claimed becoming well known in this country.
- (v) Rights to a sign other than the signs referred to in subsection (iv) have been established, when the sign has more than just local character and the sign has a right to forbid the use of the earlier mark.
- (vi) The trademark without permission consists of or contains a personal name or a personal portrayal to which another has the right and does not allude to persons long dead, when there is a right association with the name or portrait to prohibit the use of the trademark.
- (vii) The trademark without permission consists of or contains parts, which by the relevant public, will be perceived as a distinctive name or a depiction of a property located in this country, to which are associated rights of the owner to prohibit the use of the trademark and these rights are more than just of local character.
- (viii) The trademark infringes another's copyright or industrial property right, when there is a right to prohibit the use of the trademark associated with these rights
- (ix) There is a likelihood of confusion with an earlier trademark, which is protected abroad, if the applicant was in bad faith at the time of filing the application.
- (4) Under the appropriate circumstances a trademark shall not be excluded from registration pursuant to the provisions of subsections (1) and (3) where the proprietor of the earlier rights consents to the registration of the later trademark.

Opposition

Section 19

- (1) When the application has been published, opposition may be filed against the application. The opposition, which shall be reasoned, shall be filed with the Patent and Trademark Office within two months from the date of publication. A fee shall accompany the opposition, cf. Section 60 (c)(1).
- (2) An opposition according to subsection (1) may be submitted with reference to infringement of one or several of the relative grounds, which are cited in Section 15, and may concern some or all of the goods or services covered by the application.
- (3) The opposition may be filed by the holder of the rights claimed or by the persons and undertakings, which are entitled thereto in accordance with Section 8(1) or Section 9(1), as well as by persons or undertakings, which are entitled to exercise the rights referred to in Section 15(3)(3). If the opposition is filed with reference to several earlier rights, all of the earlier rights must belong to the same holder.
- (4) In an opposition the Patent and Trademark Office may decide that
 - (i) the application is upheld in its entirety,
 - (ii) the application is refused totally or partially, cf. Section 15 or
 - (iii) the application is transferred to the owner of the right pursuant to Section 5(4)(2).

Registerudskrift
(Extract of Register)

OHIM status: Registered

(210) Sagsnummer : EU013175278 (151) EU registration date: 2016-03-25
(442) EU publication date: 2014-09-29
(220) EU date of filing: 2014-08-14

(730) Indehaver : FRUIT SHIPPERS LIMITED
Third Floor, Charlotte House,
Charlotte Street
10051
Nassau
10051
Bahamas

(740) Fuldmægtig : LOCKE LORD LLP
(750) Adresse : 201 Bishopsgate
EC2M 3AB
London
EC2M 3AB
Storbritannien

PONS CONSULTORES DE PROPIEDAD INDUSTRIAL, S.A.
Glorieta Rubén Darío, 4
28010
Madrid
28010
Spanien

(540) Mærke : BONITA

(550) Mærketype : Ordmærke

(511) Klasser og Varefortegnelse : Klasse 29: Kød, fisk, fjerkræ og vildt, dog ikke i frossen tilstand; Kødekstrakter, dog ikke i frossen tilstand; Mælk og mejeriprodukter, dog ikke i frossen tilstand; Æg, dog ikke i frossen tilstand; Konserverede, tørrede, bagte, tilberedte og konserverede frugter og grøntsager; Geléer, syltetøj, kompotter; Frugtsalater; Snacks baseret på frugt.

Klasse 30: Sukker, dog ikke i frossen tilstand; Naturlige sødemidler, dog ikke i frossen tilstand; Bagværk, brød, gær, dog ikke i frossen tilstand; Pastavarer, bagepulver, mel, krydderier og smagstilsætninger, dog ikke i frossen tilstand; Honning og erstatningsprodukter for honning, dog ikke i frossen tilstand; Næringsmiddelprodukter fremstillet på basis af ris, mel eller kornprodukter, også i form af færdigretter, dog ikke i frossen tilstand; Kaffe; Kaffeekstrakter og Næringsmidler på basis af kaffe; Kaffeerstatning og ekstrakter af kaffeerstatning; Hele kaffebønner; Ubrændt kaffe; Malet kaffe; Koffeinfri kaffe; Pulverkaffe; Drikke på basis af kaffe; Drikke på basis af kaffe; Kaffeblandinger; Kaffe med smagsstoffer; Ristede kaffebønner; Malede kaffebønner; Tilberedt kaffe og kaffebaserede drikke; Drikke på basis af kaffe; Brygget kaffe; Malet kaffe; Kaffedrikke med mælk; Kaffebaserede isdrikke; Filtre i form af papirposer indeholdende kaffe, te, teekstrakter og præparater på basis af te; Kakao og tilberedning på kakaobasis, Chokolade, chokoladeprodukter; Buddinger; Morgenmadsprodukter af korn, ris, pastavarer, også i form af færdigretter; Coulis af frugt [saucer]; Førnævnte varer dog ikke i form af konfekturvarer, råis, iscreme, konfekturvarer med iscreme, chokoladesmørrepålæg, kager, småkager eller mousse.

Klasse 31: Levende dyr, friske frugter og grøntsager; Frø og såsæd; Næringsmidler til dyr, malt; Landbrugs-, havebrugs- og skovbrugsprodukter samt frø, ikke indeholdt i andre klasser, og ikke naturlige planter og blomster.

Klasse 32: Øl; Mineralvand og kulsyreholdige vande samt andre ikke-alkoholholdige drikke; Frugtdrikke og frugtsaft; Saft og andre præparater til fremstilling af drikke; Frugtekstrakter; Frugtnektar, ikke-alkoholholdig; Smoothies.

Udskrift slut
(End of Extract)

Fra: - PVS Patent- og Varemærkestyrelsens officielle postkasse
Sendt: 16. oktober 2019 08:20
Til: 3 - PVS Poprettelsen nye sager; 3 - PVS Kassen
Emne: VS: Indsigelse imod endelig registrering af MP1259963 "BONITO" <figur> i klasse 29, 30 og 32 [Our ref.: I2238DKIP/PLK]
Vedhæftede filer: Indsigelsesbegrundelse.pdf

Fra: Patrade (info@patrade.dk) [mailto:info@patrade.dk]
Sendt: 15. oktober 2019 21:29
Til: - PVS Patent- og Varemærkestyrelsens officielle postkasse
Cc: Anne Louise Reimer - Patrade A/S
Emne: Indsigelse imod endelig registrering af MP1259963 "BONITO" <figur> i klasse 29, 30 og 32 [Our ref.: I2238DKIP/PLK]

Til Patent- og Varemærkestyrelsen

Se venligst vedhæftede indsigelse imod registrering af den internationale varemærkeansøgning med designering af Danmark med registreringsnummer MP1259963.

Gebyret bedes trækkes fra vores konto med reference PVS 4.

Med venlig hilsen | Yours sincerely

Patrade
Patrick Lykke Knudsen
Legal Consultant
M.Sc in Business Administration and Commercial Law

Patrade A/S	Phone: +45 7020 3770
Østre Havnepromenade 26	Direct: +45 9879 5009
DK-9000 Aalborg	Fax: +45 7020 3771
Denmark	

Aarhus

Copenhagen

Aalborg

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Patent- og Varemærkestyrelsen
Helgeshøj Alle 81
2630 Taastrup
Danmark

Sendt via e-mail til:
pvs@dkpto.dk

Dato: 15. oktober 2019
Vores ref.: I2238DKIP
Ansøgningsnummer: MP1259963
Ansøger: MLADEGS PAK d.o.o.
Indsiger: FRUIT SHIPPERS LIMITED
Emne: Indsigelse imod endelig registrering af MP1259963 "BONITO" <figur> i klasse 29, 30 og 32

Indsigelsesbegrundelse

På vegne af min klient,

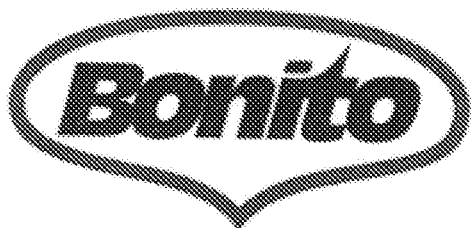
Indsiger
Fruit Shippers Limited
Charlotte Street, Charlotte House, 3rd floor
Nassau
Bahamas

indsendes hermed – jf. varemærkelovens § 15, stk. 1, nr. 2 – denne indsigelse imod endelig registrering af varemærkeansøgningen af "BONITO" <fig>. Mærket er ansøgt i klasse 29, 30 og 32 med internationalt registreringsnummer 1259963 og designering af Danmark af

Ansøger
MLADEGS PAK d.o.o.
Vijaka bb
78430 Prnjavor
Bosnien-Hercegovina

Det følger af varemærkelovens § 15, stk. 1, nr. 1, at et ansøgt varemærke kan udelukkes fra registrering, hvis det forårsager risiko for forveksling med et ældre varemærke, hvis det er ansøgt for lignende eller identiske varer. I de følgende afsnit vil det blive redegjort for, at det ansøgte mærke er forveksleligt med indsigers ældre mærke.

Ansøgningen vedrører det følgende mærke:



PATRADE A/S
CERESBYEN 75
DK-8000 AARHUS C
CVR-NR. 3874 0571

AARHUS
COPENHAGEN
AALBORG
KOLDING

TEL +45 7020 3770
INFO@PATRADE.DK
WWW.PATRADE.DK

Mærket er ansøgt for de følgende varer:

- Klasse 29 Bouillons, beef soups, vegetable soups, bouillon concentrates; sour cream (dairy products); chocolate milk; preserved fruit; vegetable (dried vegetable).
- Klasse 30 Ketchup; cakes (powder for cakes), cakes (paste for cakes), mayonnaise; spices; sugar, malt (malt extract) for food, seasonings, vanilla; farinaceous food pastes; oat flakes; puddings.
- Klasse 32 Fruit juices, non-alcoholic fruit extracts, non-alcoholic fruit juice beverages.

Indsigers ældre mærke, "BONITA" <ord>, er registreret i EU med registreringsnummer 013175278 i klasse 29, 30, 31 og 32. Det blev ansøgt d. 14. august 2014 og er registreret for de følgende varer:

- Klasse 29 Meat, fish, poultry and game except in frozen form; meat extracts except in frozen form; milk and milk products except in frozen form; eggs except in frozen form; preserved, dried, baked, cooked and preserved fruits and vegetables; jellies, jams, compotes; Fruit salads; Fruit-based snack food.
- Klasse 30 Sugar except in frozen form; natural sweeteners except in frozen form; bakery products, bread, yeast except in frozen form; pasta, baking-powder, flour, spices, and flavourings except in frozen form; honey and honey substitutes except in frozen form; food products based on rice, flour or cereals, also in the form of cooked dishes except in frozen form; Coffee; coffee extracts and coffee-based preparations; coffee substitutes and extracts of coffee substitutes; coffee beans; unroasted coffee; ground coffee; decaffeinated coffee; instant coffee; coffee drinks; coffee beverages; coffee mixtures; flavoured coffee; roasted coffee beans; ground coffee beans; prepared coffee and coffee-based beverages; coffee based drinks; coffee in brewed; coffee in ground form; coffee beverages with milk; ice beverages with a coffee base; filters in the form of paper bags filled with coffee, tea, tea extracts and tea-based preparations; cocoa and preparations having a base of cocoa, chocolate, chocolate products; puddings; breakfast cereals, rice, pasta, also in the form of cooked dishes; fruit sauces; none of the afore-mentioned goods being confectionery, ice, ice cream, ice cream confections, chocolate spread, cakes, biscuits or mousses.
- Klasse 31 Fresh fruits and vegetables live animals; seeds; foodstuffs for animals, malt; agricultural, horticultural and forestry products and grains not included in other classes and excluding natural plants and flowers.
- Klasse 32 Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages; fruit extracts; fruit nectars, non-alcoholic; smoothies.

Det er indsigers opfattelse, at der er både mærkelighed, vareidentitet og varelighed imellem det ansøgte mærke og den ældre rettighed. Der er dermed risiko for, at den almene relevante forbruger vil kunne forveksle de to mærker med hinanden.

Varelighed

Ligheden mellem de ansøgte varer og de varer, som det ældre mærke er registreret for, illustreres i de følgende tabeller med tilhørende forklaringer.

Den følgende tabel anfører de ansøgte varer, der kan anses for at være identiske med de varer, som det ældre mærke er registreret for.

PATRADE A/S
CERESBYEN 75
DK-8000 AARHUS C
CVR-NR. 3874 0571

AARHUS
COPENHAGEN
AALBORG
KOLDING

TEL +45 7020 3770
INFO@PATRADE.DK
WWW.PATRADE.DK

Identitet mellem varerne

Varer omfattet af ansøgningen	Varer omfattet af den ældre registrering
<i>Bouillons, beef soups, vegetable soups, bouillon concentrates;</i>	<i>meat extracts except in frozen form</i>
Bemærk, at de ansøgte varer, er deklareret samlet uden adskillelse af semikolon. Idet bouillon er udskilt af kogt kød, er varerne omfattet af den bredere betegnelse, "meat extracts", hvorved der eksisterer identitet imellem varerne.	
<i>sour cream (dairy products); chocolate milk;</i>	<i>milk and milk products except in frozen form</i>
Crème fraîche og chokolademælk er begge baseret på mælk, hvorved der eksisterer identitet.	
<i>preserved fruit; vegetable (dried vegetable)</i>	<i>preserved, dried, baked, cooked and preserved fruits and vegetables</i>
Varerne adskiller sig udelukkende i deres formulering.	
<i>Ketchup;</i>	<i>fruit sauces;</i>
Ketchup er en sovs med tomater som hovedingrediens. Tomater er frugter, og varerne er derfor identiske.	
<i>Spices;</i>	<i>spices and flavourings except in frozen form;</i>
"Spices" omfatter krydderier i ikke-frossen form, hvorved der eksisterer identitet imellem varerne.	
<i>sugar, malt (malt extract) for food, seasonings, vanilla;</i>	<i>Sugar except in frozen form;</i>
Bemærk igen, at de ansøgte varer er deklareret samlet. Der eksisterer dermed identitet mellem varerne på baggrund af blandt andet inklusionen af "sugar".	
<i>farinaceous food pastes;</i>	<i>food products based on rice, flour or cereals, also in the form of cooked dishes except in frozen form;</i>
Farinaceous betyder, at produktet indeholder stivelse. Idet sådanne typer af puré kan være baseret på ris, eksisterer der identitet med "food products based on rice".	
<i>oat flakes;</i>	<i>breakfast cereals, rice, pasta, also in the form of cooked dishes;</i>
Havregryn anvendes i Danmark som en type af morgenmadsprodukt, og der er derfor identitet mellem "oat flakes" og "breakfast cereals".	

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AARHUS
COPENHAGEN
AALBORG
KOLDING

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puddings

Puddings

Varerne er identiske.

Fruit juices, non-alcoholic fruit extracts, non-alcoholic fruit juice beverages.

fruit drinks and fruit juices; fruit extracts; fruit nectars, non-alcoholic;

Bemærk, at varerne er deklareret samlet. Varerne er kun adskilt i deres formulering, og de to deklarationer indeholder de samme varer.

Den følgende tabel anfører de ansøgte varer, der kan anses for at være ligeartet med de varer, som det ældre mærke er registreret for.

Ligeart mellem varerne

Varer omfattet af ansøgningen

Varer omfattet af den ældre registrering

cakes (powder for cakes), cakes (paste for cakes),

cocoa and preparations having a base of cocoa, chocolate, chocolate products; puddings;

Bemærk, at varerne er deklareret samlet. "Cakes" omfatter kager af enhver art. Kager laves ofte med chokolade eller kakao. "Chocolate products" omfatter ikke chokoladecake, da varedeklarationen indeholder "none of the afore-mentioned goods being [...] cakes". Der er til gengæld lighed mellem andre typer af chokolade produkter og chokoladecake til en sådan grad, at forbrugere vil kunne forveksle to mærker på den baggrund. Den almene forbruger har ikke kendskab til en producents fulde produktportefølje og vil sagtens kunne antage, at en producent af chokoladeprodukter også producerer chokoladecake.

Mayonnaise;

Fruit sauces; eggs except in frozen form;

Mayonnaise er en dressing baseret på æggeblommer og olie. Producenter af mayonnaise producerer ofte også andre typer af dressinger såsom ketchup. Mayonnaise må derfor anses for at være ligeartet med "fruit sauces", der som tidligere nævnt omfatter ketchup. Derudover vil den almene forbruger kunne antage, at en producent af æg også producerer mayonnaise pga. indholdet deraf.

Baseret på de ovenstående betragtninger, er det indsigers opfattelse, at der eksisterer enten identitet eller ligeart mellem samtlige af de enkeltvis ansøgte varer og de korresponderende varer omfattet af indsigers ældre registrering.

Det følger af Patent- og Varemærkestyrelsens vejledninger, at der er en iboende sammenhæng mellem vare- og mærkelighed på baggrund af produktreglen, jf. [artiklen om de Almindelige principper for vurdering af forvekslelighed](#). Der stilles lavere krav til mærkeligheden, hvis vareligheden er særdeles stor. Det er tilfældet, da størstedelen af de anfægtede varer er identiske med indsigers.

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COPENHAGEN
AALBORG
KOLDING

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INFO@PATRADE.DK
WWW.PATRADE.DK

Mærkelighed

Det ansøgte mærke – vist nedenfor – indeholder ordelementet, BONITO, og et grafisk element af en taleboble.



Det grafiske element tilfører ikke mærket betydeligt særpræg. Det fremgår af den fælles meddelelse om den fælles praksis for særpræg fra d. 2. oktober 2015, side 5, at figurelementer, der er almindeligt anvendt i handelen i forbindelse med de varer, for hvilke der ansøges om registrering, ikke som helhed tilføres fornødent særpræg. Der vises som eksempel et prisskilt og et hang tag label. Anvendelsen af en taleboble må anses at kunne sidestilles med sådanne figurelementer, idet det ikke tilfører noget udtrykkeligt til mærket udover, at ordelementet er et udsagn.

Det mest væsentlige element i figuren må derfor være ordet, idet typografien ikke er speciel. Tidligere nævnte fælles meddelelse nævner også på side 2 og 3 om brug af font i figurmærker, at typografien kun tilfører fornødent særpræg, hvis der indgår elementer af grafisk design. Det er ikke tilfældet.

Der må derfor lægges særlig vægt på ligheden mellem ordelementerne BONITA og BONITO. De to ord adskiller sig udelukkende på et enkelt bogstav. De forskellige bogstaver er begge placeret sidst i mærket, hvorved forskellen er mindre væsentlig, end hvis de var placeret forrest. Derudover er de forskellige bogstaver begge vokaler, der let forveksles.

Det synsmæssige indtryk af mærkerne er relativt ens på baggrund af, at "a" og "o" sagtens kan ligne hinanden og på baggrund af det ansøgte mærkes figurelementers manglende særpræg.

Lydmæssigt adskiller mærkerne sig ikke væsentligt, idet de har samme antal stavelser, længde, vokal- og konsonantplacering, udtalemæssig rytme, dominerende mærkebestanddele samt forvekslelige bogstaver.

Det begrebsmæssige indtryk er det samme mellem mærkerne. Ingen af mærkerne har nogen betydning for den almene forbruger. Det understreger forveksleligheden, da de to forskellige vokaler til sidst i ordelementerne ikke kan forbindes med nogen betydning.

De to mærker skaber ens helhedsindtryk, og tages der højde for den almene forbrugers forventeligt udvaskede erindringsbillede, er der overvejende risiko for forveksling imellem mærkerne.

Med særlig hensyn til den høje grad af både mærkelighed og varelighed, anmoder indsiger om, at ansøgningen bliver afvist i sin helhed for samtlige varer.

Vi skal på den baggrund anmode Styrelsen om at nægte endelig registrering af det ansøgte mærke. Såfremt ansøger fremkommer med indlæg, anmoder vi om at få lejlighed til at kommentere derpå.

Med venlig hilsen

Patrade A/S

Patrick Lykke Knudsen

PATRADE A/S

CERESBYEN 75
DK-8000 AARHUS C
CVR-NR. 3874 0571

AARHUS
COPENHAGEN
AALBORG
KOLDING

TEL +45 7020 3770
INFO@PATRADE.DK
WWW.PATRADE.DK

Legal Consultant
M.Sc in Business Administration and Commercial Law