



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: 1 (2)

The Estonian Patent Office
Trademark Department
Toompuiestee 7
15041 Tallinn
ESTONIA
Telephone: + 372 627 7927

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

1474784

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

Verbal elements of the mark: **Your water**

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

1. The sign **Your water** only indicates the quality and the kind of the goods in class 32 indicated in item VI.1, namely it is merely a laudatory promotional message indicating water is produced especially with the customer in mind.

The sign **Your water** is not distinctive for goods in class 32 indicated in item VI.1, because it is devoid of any distinctive character.

Therefor the IR 1474784 cannot be registered in Estonia for goods indicated in item VI.1

2. The registration cannot be accepted for goods in class 32 indicated in item VI.2, because the sign **Your water** on the mark may deceive the customer as to the kind and intended purpose of the goods in class 32 indicated in item VI.2, as the goods in question are not water or preparations for making water.

Therefor the IR 1474784 cannot be registered in Estonia for goods indicated in item VI.2.

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

Section 9 subsection 1(6) (see IV.2)

VI. 1. The ground referred to in item IV.1 affects **following goods in class 32: Mineral water [beverages]; aerated water; table waters; non-alcoholic beverages; non-alcoholic beverages flavored with tea; powders for effervescing beverages; syrups for beverages; preparations for making aerated water; syrups for making flavoured mineral water; essences for making flavoured mineral water, not in the nature of essential oils; preparations for making beverages; pastilles for effervescing beverages; essences for making beverages.**

2. The ground referred to in item IV.2 affects **following goods in class 32: Aperitifs, non-alcoholic; kvass [non-alcoholic beverage]; cocktails, non-alcoholic; lemonades; aloe vera drinks, non-alcoholic; whey beverages; soft drinks; non-alcoholic fruit juice beverages; fruit nectars, non-alcoholic; orgeat; syrups for lemonade; smoothies; non-alcoholic fruit extracts.**

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 **21/05/2020** (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: 21/01/2020 (dd/mm/yyyy).

IX. Signature of the Office:

Ekke-Kristian Erilaid
Senior Examiner

Extract from the Estonian Trademark Act

§ 9. Absolute circumstances which preclude legal protection

(1) Legal protection shall not be granted to the following signs:

2) signs which are devoid of any distinctive character, including single letters in non-stylised form, single numbers in non-stylised form and single colours;

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, or which describe the goods or services in another manner, or which consist of the above-mentioned signs or indications which are not considerably altered;

6) signs which are of such a nature as to mislead the consumer as to 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;

§ 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.

§ 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.

§ 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.

§ 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.