

Notification of Provisional Refusal based on an Ex Officio Examination (to WIPO)

Pursuant to Rule 17(2) of the Common Regulations under the Madrid Agreement concerning the international registration of marks and the Protocol relating to that Agreement.

I. National office that notifies the refusal of protection:
The Swedish Patent and Registration Office
Box 530, S-826 27 SÖDERHAMN, SWEDEN

Telephone: + 46 8 782 25 00
Telefax: + 46 270 173 51

II. International registration: No: 1485041, medbuy.online

III. Holder of the international registration:
MEDINDUSTRY (CYPRUS) LIMITED
Griva Digeni, 59, Kaimakliotis Building, 5th floor
CY-6043 Larnaca
Cyperm

IV. The scope of the refusal:
Provisional refusal for ALL goods and/or services

V. Grounds for refusal:

Absolute grounds:

Trademark Act Chapter 5 Art 8:2, Chapter 1 Article 5 and Chapter 2 Article 5:

The trademark is considered to be devoid of any distinctive character in respect of the following services:
Class 35 provision of an on-line marketplace for buyers and sellers of goods and services;
wholesale services for pharmaceutical, veterinary and sanitary preparations and medical supplies;
retail services for pharmaceutical, veterinary and sanitary preparations and medical supplies

Relative grounds:

Trademark Act Chapter 5 Article 8:2 and Chapter 2 Article 8:1, item 2:

The mark is confusingly similar to the Community Trademark(s):
014795661 med buy medical consulting
In respect of all the services in class 35

VI. You will find more information about the conflicting mark(s) (if any) enclosed under XII.
The relevant provisions of the Swedish Trademark Act are under XII.

VII. Date of provisional refusal: 26/03/2020
Response must be received within: 26/06/2020

VIII. Signature by the Office:
THE SWEDISH PATENT AND REGISTRATION OFFICE

Marta Hugosson

IX. If the holder does not contest the provisional refusal within 3 months, protection is given for:

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Rapid publishing of the limited list

If the holder wishes for rapid publishing of the designated trade mark – for the goods/services which are not subject to refusal – the holder may send an explicit request to PRV that the designation of Sweden is partially withdrawn for the goods/services which are subject to the provisional refusal. This request must be signed in original.

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X. Request for a review

The holder of the registration may request a review of the provisional refusal. The Swedish Patent and Registration Office must receive the request no later than 3 months from the date of this provisional refusal. Such request must provide an address for correspondence and be filed in Swedish, Danish, Norwegian or English. The Swedish Patent and Registration Office will respond in Swedish.

XI. Final decision

If this provisional refusal is not contested, or if any of the invoked grounds remain after a request for review, the Swedish Patent and Registration Office will issue a final decision in this matter.

Only applicable to partial refusals: once the final decision takes legal effect (no appeal is filed), the international registration designating Sweden will be published for protection with this above list of goods and services. If the final decision is appealed the case will be remitted to the Patent and Market Court.

Post grant opposition

Please note that to the extent the designation of Sweden is accepted, a post grant opposition may be filed against the mark within 3 months from the publication of the mark.

XII. The relevant provisions of the Swedish Trademark Act regarding the grounds of this provisional refusal:
Trademark Act Chapter 5 Art 8:2, Chapter 1 Article 5 and Chapter 2 Article 5
Trademark Act Chapter 5 Article 8:2 and Chapter 2 Article 8:1, item 2

Chapter 1. Basic Provisions

Article 5. A trade symbol shall be considered to be distinctive if it is able to distinguish goods or services that are being provided in one business activity from those of another.

Lack of distinctive character may be caused by the fact that a trade symbol consists only of signs or indications that

1. in the course of trade show the kind, quality, quantity, intended use, value, geographical origin or other characteristics, or the time of production of the goods, or rendering of the services, or
2. in common language or according to established practice in trade have become a customary denomination for the goods or services.

In the determination of whether a symbol is distinctive, consideration shall be given to whether it can acquire distinctiveness thorough use.

Chapter 2. National Registration of Trademarks

Article 5. In order for a trademark to be registered, it must have distinctiveness in respect of the goods or services to which it relates.

Article 7. A trademark may not be registered if the trademark

1. is contrary to law or other regulations or to principles of morality or public policy,
2. is likely to deceive the public concerning the nature, quality, geographical origin or any other circumstance related to the goods or services,
3. contains, without permission, such a State or international emblem or such a municipal coat of arms that, by law or other statute, must not be used unauthorized as a trademark, or something that can be easily confused with such an emblem or such a coat of arms,
4. contains, without permission, such a mark, which according to the Act (2014:812) for protection of marks in the international and humanitarian law, must not be used unauthorized as a trademark, or something that can be confused with such a mark,
5. contains a protected designation of origin, a protected geographical indication, a traditional expression for wine or a traditional speciality guaranteed, to the extent such protection exists for the designation within the Union legislation,
6. contains or consists of something which is likely to be perceived as a geographical designation for wine or spirit beverages and the trademark concerns wine or spirit beverages of another origin, or
7. contains or, reproduce in their essential elements, an earlier plant variety denomination, which concerns a plant variety of the same or related plant variety species, to the extent the plant variety is protected according to the Plant Breeders Right Act (1997:306) or the Union legislation.

A trademark that refers to a collective-, guarantee- or a control trademark may not be registered if the conditions for the use of the mark is contrary to principles of morality or public policy.

A collective mark, as referred to in Article 6, may furthermore not be registered if the conditions do not permit membership in the association for all who provide goods and services which the mark concerns and the goods and services have their origin in the geographical area which the mark concerns.

Article 8. A trademark may not be registered if the trademark

1. is identical with an earlier trade symbol for goods or services of the same kind,
2. is identical with or is similar to an earlier trade symbol for goods or services of the same or similar kind if there is, due to this fact, a risk of confusion including the risk that the use of the trademark gives the impression that there is a link between the party using the trademark and the holder of the trade symbol,
3. is identical with or similar to an earlier trade symbol which is known in a considerable portion of those to whom it is addressed and the use of the trademark, without legitimate reason, would attract undue advantage of, or cause damage to the distinctiveness or reputation of the trade symbol irrespective of if the use concerns goods or services of the same, similar or other kind, or
4. may be confused with a mark that was used in this country or in a foreign country at the time of the application and is still in use if the applicant was in bad faith at the time of the application.

As a trade symbol referred to in the first Paragraph, 1 to 3, is deemed

1. a trademark that is registered pursuant to this Chapter,
2. a trademark that is registered on the basis of an international trademark registration which is valid in Sweden pursuant to Chapter 5,
3. a trade symbol that is established on the market, if the protection based on the establishment on the market is valid within a considerable part of the country, and
4. a EU Trade Mark.

Article 9. The obstacles to registration referred to in Article 8, first Paragraph, 1- 3, apply *mutatis mutandis* also as regards

1. a registered trade name that is being used in commercial activities,
2. such a name or a business symbol, other than a trade name, protected pursuant to Chapter 1, Article 8, if the protection applies within a considerable part of the country.

Article 10. A trademark may not be registered if it contains or consists of

1. something that is likely to convey the impression of being someone else's trade name,
2. something that is likely to convey the impression of being someone else's distinctive family name, generally known artistic name or similar name, if the use of the trademark would cause disadvantage for the holder of the name and if the name does not obviously relate to someone who is long deceased,
3. a picture of someone else that does not obviously relate to someone who is long deceased,
4. something that violates someone else's copyright in a literary or artistic work or some else's right in a photographic picture or in a design.

Article 11. The provisions of Articles 8 to 10 Paragraphs 1-4 do not constitute grounds for refusal of registration, if the holder of the earlier right consents to the registration.

Chapter 5. International Trademark Registration

Article 8. If the Patent and Registration Office receives a notification from the International Bureau to the effect that someone has applied for an international trademark registration to be extended to Sweden, the Office shall examine whether there exists any obstacle to this.

An obstacle to the extension of the international trademark application to Sweden exists if there would have been an obstacle to a national registration of the trademark pursuant to Chapter 2, Articles 4 to 11.

If the Patent and Registration Office considers that an obstacle exists under the second Paragraph, the Office shall inform the International Bureau that the international trademark registration cannot, wholly or in part, be extended to Sweden. Such information shall be given within 18 months from the date of the notification and contain the grounds why the registration cannot be extended here.

Article 9. If the Patent and Registration Office has informed the International Bureau under Article 8, third Paragraph, the Office shall not earlier than three months after the information was transmitted decide that the international trademark registration shall not, wholly or in part, extend to Sweden if at that point in time an obstacle referred to in Chapter 2, Articles 4 to 11 still exists.

Article 10. If no obstacle referred to in Chapter 2, Articles 4 to 11 exists, the Patent and Registration Office shall enter the trademark in the Trademark Register and publish a notice that the international trademark registration is valid in Sweden.

If the Patent and Registration Office has decided that the international trademark registration shall partly not be valid in Sweden, the entry of the trademark in the Trademark Register and the publication of a notice shall concern only the remainder of the goods or services when the decision has taken legal force.

Article 14. At the request of the holder of the international trademark registration and of the opponent the Swedish Patent and Registration Office shall decide a specified period of time of at least two months in order to make possible for the parties to reach an agreement. The period of time can be extended at the request of the parties.

Article 16. After an opposition has been filed, the Patent and Registration Office shall decide that the international trademark registration shall, wholly or in part, not extend to Sweden if grounds for refusal referred to Chapter 2, Articles 4 to 11, exists to its extension here. This applies if nothing else follows from Article 17.

An opposition that is wholly or in part based on grounds for refusal referred to in Chapter 2, Articles 8 to 10, shall be rejected in those parts if it has been filed by someone who does not act in his own interest and the holder of the registration so requests.

A decision that the registration shall not extend to Sweden may be based only on a fact that has been communicated to the International Bureau within 18 months from the date of the notification under Article 8, first Paragraph. If the time for opposition, according to Article 11, has expired after that time limit, the decision may nevertheless be based on circumstances that have been communicated to the International Bureau within a month from the expiry of the time limit for opposition. This applies under condition that the Patent and Registration Office within the time limit of 18 months has informed the International Bureau that a notification about such a decision may be communicated later.

If, due to an opposition, the Patent and Registration Office, decides that the registration shall, wholly or in part, not extend to Sweden, the trademark shall to a corresponding extent be removed from the Trademark Register when the decision has taken legal force. A notice about the decision shall be published.

Article 17. If an opposition against the protection of the international trademark registration in Sweden is based on that an earlier registered trademark according to Chapter 2 Article 8 constitutes an obstacle and it on the day of filing or, as the case may be, it from the day of priority of the international registration has elapsed more than five years since the registration of the earlier trademark was finally decided, the following applies. It may be decided that the international registration shall not be granted protection here only if the earlier trademark was taken in real use concerning the goods and services, on which the opposition is based on in the manner referred to in Chapter 3 Article 2 or, if the earlier trademark is a EU-Trademark, on which the opposition is based on in the manner referred to in the Councils Regulation (EU) 2017/1001 of June the 14 2017 regarding EU-Trademarks, within the five years before the date of filing or the date of priority of the international registration.

If the earlier trademark has not been used to the extent which is provided for in the first Paragraph, it may still be decided that the international registration shall not be granted protection in Sweden if there are legitimate reasons to that the earlier trademark not has been used in the required extent.

BILAGA

Registreringsnummer: 1485041

Registreringsdag: 2019-03-18

Ansökningsnummer: 1485041

Ingivningsdag: 2019-03-18

Märkestyp: Ord

Text i märket: medbuy.online

Klassificering:

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

Innehavare: MEDINDUSTRY (CYPRUS) LIMITED , Griva Digeni, 59, Kaimakliotis Building,
5th floor
CY-6043 Larnaca, Cypem.

BILAGA

Registreringsnummer: 014795661

Registreringsdag: 2016-03-03

Ansökningsnummer: 014795661

Ingivningsdag: 2015-11-17



Märkestyp: Figur

Text i märket: med buy medical consulting

Klassificering:

5: Hygieniska preparat och artiklar; Medicinska och veterinära preparat och artiklar; Dentala preparat och -artiklar; Medicinska förband, -höljen och -skydd.

35: Företagsanalyser, -undersökningar och -information; Företagsassistans, -ledning och -administration; Kommersiell handel och konsumentinformation; Reklam, marknadsföring och säljfrämjande tjänster; Auktionering; Onlineauktioner via internet; Återförsäljning eller detaljhandelstjänster för farmaceutiska, veterinära och sanitära preparat och medicinska varor; Anskaffande av kontrakt för köp och försäljning av varor; Förmedling av kontrakt åt andra för tillhandahållande av tjänster.

38: Telekommunikationstjänster; Mediasändningstjänster; Datorkommunikation och internetåtkomst; Telefoni- och mobiltelefonitjänster; Tillhandahållande av åtkomst till plattformar och portaler på internet; Direktanslutna kommunikationstjänster; Åtkomst till innehåll, webbsidor och portaler; Tillhandahållande av chatttrum på internet och internetforum.

41: Utbildning, underhållning och sport; Förlagstjänster och reportage; Anordnande, genomförande och organisation av seminarier; Arrangerande och hållande av seminarier; Sport och fitness; Utgivning av trycksaker och tryckta publikationer; Utgivning av trycksaker i elektronisk form på internet; Konsultation avseende utbildning och fortbildning; Ledning av studiecirkel; Anordnande av handledning/instruktion och kurser; Handledning/instruktion i elteknik; Upplåtande av datorstödda instruktionskurser.

42: Designtjänster; IT-tjänster; Testning, verifieringstjänster och kvalitetskontroll; Vetenskapliga och tekniska tjänster; Medicinsk och farmakologisk forskning; Byggnation och underhåll av webbplatser; Utarbetande av databehandlingsprogram; Vårdskap för databaser; Underhåll av databaser; Vårdskap för plattformar på internet.

44: Hälsovårdstjänster för människor; Hygienisk vård och skönhetsvård för människor; Tjänster avseende mental hälsa; Medicinska tjänster; Farmaceutiska tjänster; Tandläkartjänster; Diet- och kostrådgivning; Akupunkturtjänster; Rådgivning avseende medicinsk hälsovård; Vårdtjänster för patienter i öppen vård och sjukhuspatienter; Kostrådgivning; Informationstjänster relaterade till hälsovård; Tillhandahållande av näringsinformation för livsmedel; Autogen träning; Behandling av allergier; Viktkontrollbehandling; Övervakning av patienter; Professionella rådgivningstjänster avseende hälsovård; Konvalescenthem; Vårdcentraler; Hälsovetenskapstjänster; Konsultationstjänster avseende hälsovård; Sjukhem; Konditionstester (hälsoundersökning); Massage; Dietrådgivning; Rådgivningstjänster avseende hälsa; Terapitjänster; Kostnadseffektiva hälsovårdstjänster; Professionella konsultationer avseende hälsa; Undersökningar för bedömning av hälsorisker; Förberedande av rapporter relaterad till hälsovårdsförhållanden; Uthyrning av sjukhusutrustning.

Innehavare: Stefan Krieg, An der Schleifmühle 35
31606 Marklohe, Tyskland.

Ombud: HORAK. RECHTSANWÄLTE PARTNERSCHAFT MBB, Georgstr. 48
30159 Hannover, Tyskland.