



**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:

**The Estonian Patent Office**  
**Trademark Department**  
**Toompuiestee 7**  
**15041 Tallinn**  
**ESTONIA**  
**Telephone: + 372 715 1735**

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

**1487010**

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

Figurative mark / verbal elements of the mark: **FITOKOSMETIK**

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

The trademark cannot be protected, because the word FITOKOSMETIK in Cyrillic characters is devoid of any distinctive character regarding some goods and services named in the list of goods and services. The trademark consists of indication, which may serve, in trade, to designate the kind and characteristics of some goods and services. The sign designates that the goods are phytocosmetic products for personal or household use or the goods and services are related to phytocosmetics.

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

VI. The ground referred to in item IV. affects the following goods in class 3: *Abrasives; amber [perfume]; descaling preparations for household purposes; antistatic preparations for household purposes; aromatics [essential oils]; air fragrancing preparations; breath freshening sprays; canned pressurized air for cleaning and dusting purposes; balms, other than for medical purposes; lip glosses; polishing stones; abrasive paper; emery paper; polishing paper; petroleum jelly for cosmetic purposes; shoe polish; cobblers' wax; cotton wool for cosmetic purposes; sachets for perfuming linen; drying agents for dishwashing machines; adhesives for cosmetic purposes; scented water; javelle water; lavender water; toilet water; wax for parquet floors; floor wax; non-slipping wax for floors; depilatory wax; mustache wax; tailors' wax; creams for leather; creams for leather; polish for furniture and flooring; shoemakers' wax; polishing wax; massage gels, other than for medical purposes; heliotropine; dental bleaching gels; geraniol; make-up; deodorants for pets; deodorants for human beings or for animals; depilatory preparations; scented wood; perfumes; non-slipping liquids for floors; windshield cleaning liquids; greases for cosmetic purposes; volcanic ash for cleaning; perfumery; decorative transfers for cosmetic purposes; ionone [perfumery]; shaving stones [astringents]; smoothing stones; eyebrow pencils; cosmetic pencils; silicon carbide [abrasive]; carbides of metal [abrasives]; alum stones [astringents]; tripoli stone for polishing; adhesives for affixing false eyelashes; adhesives for affixing false hair; hair rinses [shampoo-*

conditioners]; quillaia bark for washing; corundum [abrasive]; beard dyes; colorants for toilet purposes; cosmetic dyes; laundry starch; laundry glaze; shoe cream; polishing creams; cosmetic creams; skin whitening creams; polishing rouge; incense; hair spray; nail polish; hair lotions; lotions for cosmetic purposes; after-shave lotions; beauty masks; oils for perfumes and scents; oils for cosmetic purposes; oils for toilet purposes; essential oils; essential oils of cedarwood; essential oils of lemon; essential oils of citron; oils for cleaning purposes; bergamot oil; gaultheria oil; jasmine oil; lavender oil; almond oil; rose oil; oil of turpentine for degreasing; whiting; cleaning chalk; almond milk for cosmetic purposes; cleansing milk for toilet purposes; musk [perfumery]; deodorant soap; shaving soap; soap for brightening textile; cakes of toilet soap; antiperspirant soap; soap for foot perspiration; soap; almond soap; mint for perfumery; cosmetic kits; emery; nail art stickers; false nails; eau de cologne; bases for flower perfumes; joss sticks; pastes for razor strops; non-medicated dentifrices; pumice stone; lipstick cases; hydrogen peroxide for cosmetic purposes; breath freshening strips; teeth whitening strips; abrasive cloth; glass cloth [abrasive cloth]; lipsticks; pomades for cosmetic purposes; shaving preparations; cosmetic preparations for baths; bath preparations, not for medical purposes; hair straightening preparations; hair waving preparations; laundry soaking preparations; grinding preparations; douching preparations for personal sanitary or deodorant purposes [toiletries]; smoothing preparations [starching]; color-removing preparations; leather bleaching preparations; polishing preparations; denture polishes; mouthwashes, not for medical purposes; cosmetic preparations for slimming purposes; starch glaze for laundry purposes; refurbishing preparations; eye-washes, not for medical purposes; fabric softeners for laundry use; laundry bleach; dry-cleaning preparations; paint stripping preparations; lacquer-removing preparations; make-up removing preparations; floor wax removers [scouring preparations]; varnish-removing preparations; rust removing preparations; nail care preparations; cleaning preparations; preparations for cleaning dentures; wallpaper cleaning preparations; preparations for unblocking drain pipes; collagen preparations for cosmetic purposes; laundry preparations; aloe vera preparations for cosmetic purposes; sunscreen preparations; color-brightening chemicals for household purposes [laundry]; shining preparations [polish]; make-up powder; diamantine [abrasive]; stain removers; nail varnish removers; vaginal washes for personal sanitary or deodorant purposes; scouring solutions; false eyelashes; tissues impregnated with cosmetic lotions; tissues impregnated with make-up removing preparations; saffrol; laundry blueing; turpentine for degreasing; potpourris [fragrances]; bleaching soda; washing soda, for cleaning; bath salts, not for medical purposes; bleaching salts; fumigation preparations [perfumes]; preservatives for leather [polishes]; ammonia [volatile alkali] [detergent]; astringents for cosmetic purposes; eyebrow cosmetics; make-up preparations; sun-tanning preparations [cosmetics]; hair dyes; neutralizers for permanent waving; preparations to make the leaves of plants shiny; cosmetic preparations for eyelashes; cosmetic preparations for skin care; shoe cream; cosmetics; cosmetics for animals; mascara; cleansers for intimate personal hygiene purposes, non medicated; detergents, other than for use in manufacturing operations and for medical purposes; degreasers, other than for use in manufacturing processes; bleaching preparations [decolorants] for cosmetic purposes; antiperspirants [toiletries]; toiletry preparations; phytocosmetic preparations; talcum powder, for toilet use; cotton sticks for cosmetic purposes; terpenes [essential oils]; emery cloth; cloths impregnated with a detergent for cleaning; henna [cosmetic dye]; shampoos for animals [non-medicated grooming preparations]; shampoos for pets [non-medicated grooming preparations]; dry shampoos; shampoos; sandpaper; soda lye; herbal extracts for cosmetic purposes; extracts of flowers [perfumes]; ethereal essences; badian essence; mint essence [essential oil].

The ground referred to in item IV. affects the following services in class 35: Import-export agency services; demonstration of goods; commercial information and advice for consumers in the choice of products and services; marketing; organization of exhibitions for commercial purposes; organization of exhibitions and trade fairs for commercial purposes; presentation of goods on communication media, for retail purposes; auctioneering; wholesale services for pharmaceutical, veterinary and sanitary preparations and medical supplies; retail services for pharmaceutical, veterinary and sanitary preparations and medical supplies; distribution of samples; telemarketing services; administrative processing of purchase orders.

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 **27/07/2020** (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: 27/03/2020 (dd/mm/yyyy).

IX. Signature of the Office:

Jana Redkin  
Senior Examiner

Number of continuation sheets: 1

## **Extract from the Trade Marks Act**

### **§ 9. Absolute circumstances which preclude legal protection**

(1) Legal protection is not afforded to the following signs:

2) signs which are devoid of any distinctive character;

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

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;

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

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.

[RT I 2004, 20, 141 - entry into force 01.05.2004]

### **§ 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.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

### **§ 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.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

### **§ 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.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]