



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: + 372 627 7947

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

1516084

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

Verbal elements of the mark: **Artro-Patch**

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

The combination of words **Artro-Patch** designates the kind, characteristics, intended purpose of the goods in the form of a plaster, used in combination with plasters for treatment of bones, joints. The combination of words **Artro-Patch** is devoid of distinctive character as a trademark.

Therefore the mark cannot be granted legal protection for the goods named in item VI.

V. Provision of the Estonian Trademark Act applicable on the subject (enclosed):
Section 9 subsections 1(2), 1(3), 1(6).

VI. The ground referred to in item IV affects the following goods:

class 5: Absorbent cotton; adhesive plasters; adhesive tapes for medical purposes; analgesics; antibiotics; antiseptic cotton; antiseptics; aseptic cotton; balms for medical purposes; balsamic preparations for medical purposes; bandages for dressings; camphor for medical purposes; camphor oil for medical purposes; compresses; cotton for medical purposes; disinfectants; dressings, medical; drugs for medical purposes; gauze for dressings; greases for medical purposes; greases for veterinary purposes; liniments; lint for medical purposes; medicinal oils; medicines for human purposes; medicines for veterinary purposes; menthol; mustard for pharmaceutical purposes; mustard oil for medical purposes; mustard plasters; ointments for pharmaceutical purposes; opodeldoc; pharmaceutical preparations; poultices; solvents for removing adhesive plasters; surgical dressings; tissues impregnated with pharmaceutical lotions; veterinary preparations; wadding for medical purposes.

class 10: Arch supports for footwear; bandages, elastic; cooling pads for first aid purposes; cooling patches for medical purposes; knee bandages, orthopaedic; orthopaedic belts; plaster bandages for orthopaedic purposes; supportive bandages; supports for flat feet.

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 **17/11/2020** (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: 17/07/2020 (dd/mm/yyyy).

IX. Signature of the Office:

Signe Holm
Senior Examiner

Number of continuation sheets: 1

Extract from the Estonian Trademark Act

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

2) signs which are devoid of any distinctive character.

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.

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.

§ 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.

§ 41. Adjudication of appeals and revocation applications

(3) In case a revocation application is granted in whole or in part, the Board of Appeal shall annul the decision of the Patent Office and make a new decision on the registration of the trade mark.

§ 69. Effect of international registration

(1) Legal protection arising from an international registration valid in Estonia is equal to legal protection arising from a national registration and the rights and obligations arising from an internationally registered trade mark are equal to those arising from a nationally registered trade mark.