



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:

1530561

III. Other information concerning the international registration which is the subject of the provisional refusal:
verbal elements of the mark: **MIX IT**

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

The sign **MIX IT** only indicates the intended purpose of the goods indicated in item VI, namely that these goods are food ingredients intended for the customer for mixing up to make prepared meals or food dishes.

The sign **MIX IT** is not distinctive for goods indicated in item VI, because it is devoid of any distinctive character.

Therefor the IR 1530561 cannot be registered in Estonia for goods indicated in item VI.

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

VI. The ground referred to in item IV affects **following goods in class 30: Vanilla flavorings for culinary purposes; flavorings, other than essential oils, for cakes; flavorings, other than essential oils, for beverages; coffee flavorings; food flavorings, other than essential oils; star aniseed; noodle-based prepared meals; freeze-dried dishes with the main ingredient being pasta; freeze-dried dishes with the main ingredient being rice; bulgur; edible rice paper; edible paper; vanillin [vanilla substitute]; vermicelli; natural sweeteners; sausage binding materials; binding agents for ice cream; sea water for cooking; seaweed [condiment]; cloves [spice]; mirror icing [mirror glaze]; cake frosting [icing]; glucose for culinary purposes; mustard; croûtons; buckwheat, processed; gluten additives for culinary purposes; yeast; thickening agents for cooking foodstuffs; leaven; dressings for salad; candy decorations for cakes; pasta; frozen yogurt [confectionery ices]; cocoa; cream of tartar for culinary purposes; capers; curry [spice]; ketchup**

[sauce]; quinoa, processed; gluten prepared as foodstuff; cinnamon [spice]; starch for food; custard; hominy grits; semolina; oatmeal; crushed barley; groats for human food; corn, milled; corn, roasted; turmeric; noodles; soba noodles; udon noodles; mayonnaise; macarons; macaroni; maltose; hominy; piccalilli; marinades; honey; royal jelly; bean meal; buckwheat flour; tapioca flour; potato flour; corn flour; nut flours; flour; wheat flour; soya flour; barley meal; muesli; crushed oats; husked oats; onigiri; nutmegs; chocolate-coated nuts; molasses for food; pepper; allspice; peppers [seasonings]; bibimbap [rice mixed with vegetables and beef]; meat gravies; powders for making ice cream; baking powder; mustard meal; condiments; meat tenderizers for household purposes; cereal preparations; propolis; spices; cake powder; fruit coulis [sauces]; ravioli; relish [condiment]; rice; instant rice; wheat germ for human consumption; sago; sugar; palm sugar; sesame seeds [seasonings]; linseed for culinary purposes [seasoning]; processed seeds for use as a seasoning; aniseed; agave syrup [natural sweetener]; golden syrup; baking soda [bicarbonate of soda for cooking purposes]; malt for human consumption; salt for preserving foodstuffs; cooking salt; celery salt; ham glaze; cranberry sauce [condiment]; soya sauce; tomato sauce; apple sauce [condiment]; sauces [condiments]; pasta sauce; spaghetti; seasonings; preparations for stiffening whipped cream; shaved ice with sweetened red beans; tapioca; dough; pastry dough; cake dough; chocolate decorations for cakes; vinegar; chips [cereal products]; corn flakes; oat flakes; chocolate; essences for foodstuffs, except etheric essences and essential oils; husked barley.

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 **28/12/2020** (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 review 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: 26/08/2020 (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 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

(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.

§ 47. Withdrawal of applications, termination and resumption of processing

(2) If an application is withdrawn in the manner specified in subsection (1) of this section or deemed to be partially or fully withdrawn in the cases specified in subsections 37 (3) and 38 (2) of this Act, processing of the respective part is terminated and the applicant is notified thereof. If processing is terminated, the application documents are not returned and the state fee is not refunded.