

## MADRID PROTOCOL

### Total Provisional Refusal of Protection (Rule 17(1) of the Common Regulations)

DT-II.IR1489626.2.amor

I. Office making the notification:

Patent Office of the Republic of Poland  
Trade mark Department  
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II. Number of the international registration: **1489626**

III. Name of the holder:

TTS Tooltechnic Systems AG & Co. KG, Wertstraße 2, 073420 Wendlingen , DE

IV. Provisional refusal based on an ex officio examination

V. Total provisional refusal affects all the goods and/or services.

VI. Grounds for refusal (see item VII)

VII. Information related to the grounds of refusal:

**Art. 129<sup>1</sup>; 1.2) and 129<sup>1</sup>;1.3)**

Rights of protection shall not be granted for signs which are not capable of distinguishing, in trade, the goods for which they have been applied and consist exclusively of elements which may serve in trade to designate, in particular, the kind, origin, quality, quantity, value, intended purpose, manufacturing process, composition, function or usefulness of the goods.

The sign consists of the words "STOP", which mean "not operate -to not continue to operate, or to make something not continue to operate" (in English). For goods in class 7, the designation "stop" with a graphic representation is not distinctive because it indicates the function of the goods in the class 7. Therefore the mark is devoid of any distinctive character.

VIII. Corresponding essential provisions of the applicable law (see next pages)

IX. Information related to further procedures:

i) Any provisional refusal notified to the International Bureau can be subject to comments as to the merit of the refusal by the right holder, to be filed with the Patent Office of the Republic of Poland in Polish language within a period of five months of the receipt of the provisional refusal.

ii) In proceedings before the Patent Office a patent agent, attorney, legal counsel or a person providing cross-border services within the meaning of the Act on Patent Agents may act as a representative of a party to proceedings. Any persons not having their domicile or seat in the Republic of Poland may only act by a representative. If they did not appoint a representative to conduct the proceedings who is domiciled in the Republic of Poland and do not act by the intermediary of a consul of the Republic of Poland, are obligated to designate a representative for service in the Republic of Poland. In the event of failure to designate a representative who is authorised to accept service of documents, the letters addressed to that party will be placed in the case-file and will be deemed to have been served.

iii) The obligation shall not apply to persons having their domicile or seat in the European Union, a member state of the European Free Trade Association (EFTA) – parties to the agreement on the European Economic Area or the Swiss Confederation.

X. Signature or official seal of the Office making the notification

Anna Morawska  
/document signed electronically/

XI. Date of notification to the International Bureau: 29.09.2020

Grant of a right of protection under Article 129<sup>1</sup>(1),(2)-(4) may not be refused where prior to the date of filing of a trade mark application with the Patent Office the trade mark concerned has acquired, in consequence of its use, a distinctive character in normal trade conditions.

#### Article 136

(1) An organisation which has the capacity in its own name to have rights and obligations, established to represent interests of entrepreneurs, and a legal person governed by public law, may be granted a right of protection for a collective trade mark. The collective trade mark is intended to distinguish the goods:

1) in case of an organisation - of its members,

2) in case of a legal person governed by public law - of persons authorised to use the mark under the regulations governing its use

- from the goods of other undertakings.

(1<sup>1</sup>) The right to use a collective trade mark:

1) in case of an association – the association itself or its members are entitled to use a collective trade mark;

2) in case of a legal person governed by public law – that legal person or persons authorised to use the mark under the regulations governing its use are entitled to use a collective trade mark.

#### Article 136<sup>1</sup>

(1) A right of protection for a collective trade mark shall not be granted where the provisions of Article 136 or Article 138 (3) and (4) – are not satisfied, or where:

1) the regulations governing use of the mark are contrary to public policy or to accepted principles of morality;

2) the public is liable to be misled as regards the character or the significance of the mark, in particular if it is likely to be taken to be a sign other than a collective mark.

(2) A right of protection for a collective trade mark shall be granted if, as a result of amendments to the regulations governing use of the mark, the circumstances referred to in paragraph (1) subparagraphs 1 and 2 do not occur, and if the conditions referred to in Article 136 or Article 138 (3) and (4) were fulfilled.

#### Article 136<sup>2</sup>

(1) Any natural or legal person, including institutions, authorities and bodies governed by public law, who does not carry on a business involving the supply of goods of the kind certified, may be granted a right of protection for a guarantee trade mark. The guarantee trade mark is intended to distinguish goods which are certified by the right holder of that mark, in particular, in respect of used material, mode of manufacture of goods, quality, accuracy or other characteristics, from goods which are not so certified.

(2) Guarantee trade mark may consist of elements which may serve, in the course of trade, to indicate geographical origin of goods.

(3) Article 129<sup>1</sup> paragraph (1) subparagraph 3 shall not apply to the extent that it provides grounds for refusal to grant the right of protection for a sign which consists exclusively of elements that may serve, in trade, as an indication of origin of goods. Such a guarantee trade mark shall not entitle to prohibit a third party from using in the course of trade such signs, provided that third party uses them in accordance with honest practices in industrial and commercial matters.

(4) The rules governing use of a guarantee trade mark are specified in the regulations governing use of the mark.

#### Article 136<sup>3</sup>

(1) A right of protection for a guarantee trade mark shall not be granted if the conditions referred to in Article 136<sup>2</sup> or Article 138 (6) and (7), are not satisfied, or where:

1) the regulations governing use of the mark are contrary to public policy or to accepted principles of morality;

2) the public is liable to be misled as regards the character or the significance of the mark, in particular if it is likely to be taken to be a sign other than a guarantee trade mark.

(2) A right of protection for a guarantee trade mark shall be granted if, as a result of the amendments to the regulations governing use of the mark, the circumstances referred to in paragraph (1) subparagraph 1 and 2 do not occur, and if the conditions referred to in Article 136<sup>2</sup> or Article 138 (6) and (7) were fulfilled.

#### Article 138

(3) An application concerning a collective trade mark or an application concerning a trade mark filed in order to obtain a joint right of protection shall be accompanied by the regulations governing use of the mark.

(4) The regulations referred to in paragraph (3) shall specify, in a clear and precise manner, in particular:

1) the rules of use of the mark, including consequences of the infringement of the regulations' provisions;

2) the persons authorised to use the mark, or the conditions of membership of the association referred to in Article 136 (1) – in case of a collective trade mark;

3) the persons referred to in Article 122 (1) – in case of a joint right of protection of a trade mark.

(6) An application concerning a guarantee trade mark shall be accompanied by the regulations governing use of the mark.

(7) The regulations, referred to in paragraph (6), shall specify, in a clear and precise manner, in particular:

1) the persons authorised to use the mark;

2) the characteristics to be certified by the mark and the manner of testing those characteristics;

3) the way of supervising the use of the mark;

4) the rules of the use of the mark, including consequences of infringement of the regulations' provisions.

#### Article 141

(1) When specifying in the trade mark application the goods for which the mark is intended, the applicant shall be required to use technical terminology in the Polish language and explicit terms, and to present the list of the goods