


Notification of Total 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.	Office making the notification:	patent trademark design Norwegian Industrial Property Office 
II.	Number of the international registration: 1520869 (National application no.: 202003852) Date of subsequent designation (if any): (yyyy.mm.dd)	
III.	Name of the holder: Henkel AG & Co. KGaA Representation of the mark: NutriBalance Repair	
IV.	Total provisional refusal based on an <i>ex officio</i> examination	
V.	Provisional refusal for all the goods and/or services N/A	
VI.	<p>Grounds for refusal:</p> <p><i>Absolute grounds:</i> Trademark Act Section 14 - The trademark is considered to be devoid of any distinctive character and/or it can be used in trade to designate the goods in question. The mark consists of the words NutriBalance Repair. Nutri could be perceived as an abbreviation for nutrition. Nutrition means, the act or process of nourishing or being nourished Balance means, an even distribution of weight enabling someone or something to remain upright and steady. Repair means, to restore by replacing a part or putting together what is torn or broken. The mark as a whole is able to inform the consumer that the relevant goods can provide nutrition, balance and repair. Consequently, the mark as a whole indicates purpose, contents and characteristics of the goods claimed in the international registration, and the average consumer will not perceive the mark as designating a commercial origin. As a result, the mark fails to fulfill the function of guaranteeing the origin of the products claimed, and must be refused.</p> <p><i>Relative grounds:</i></p>	
VII.	Corresponding essential provisions of the applicable law See the relevant provisions of the Norwegian Trademarks Act regarding the grounds of this provisional refusal on our home page: https://www.patentstyret.no/en/services/trademarks/rules-and-regulations-trademarks/trademarks-act/	

VIII. Information relating to the possibility to request a review or file an appeal:

- (i) Time limit for requesting review or appeal: **2021.02.28**
- (ii) Authority to which such request for review or appeal should be made:

The Norwegian Industrial Property Office

PO Box 4863 Nydalen, NO-0422 Oslo, Norway

Telephone: +47 22 38 73 00

Telefax: +47 22 38 73 01

E-mail: post@patentstyret.no

How to proceed:

The holder of the registration may request a review of the provisional refusal. The Norwegian Industrial Property Office must receive the request no later than 3 months from the date of this provisional refusal (The time limit is indicated under point VIII). Such request must provide an address of correspondence and be filed in Norwegian, Danish, Swedish or English. The Norwegian Industrial Property Office will respond in Norwegian. Please note that if The Norwegian Industrial Property Office, either subsequent to review or appeal, accept the designation of Norway, a post grant opposition may be filed against the mark within 3 months from the publication of the mark.

If the holder does not respond to this provisional refusal within the time limit, the international registration shall be considered abandoned in Norway for the goods/services that are excluded (Trademark Act Section 70 and 23). The international registration shall be resumed if the holder, within two months from the expiration of the time limit responds to the provisional refusal and pays the stipulated fee (NOK 550,-). Please note that The Norwegian Industrial Property Office does not send any notifications to the holder that the international registration is abandoned in Norway.

IX. Signature by the office:

THE NORWEGIAN INDUSTRIAL PROPERTY OFFICE

Asfand-yar Thathal

X. Date of provisional refusal: (yyyy.mm.dd) **2020.11.28**