



ESTONIAN PATENT OFFICE
TRADEMARK DEPARTMENT

THE PROTOCOL RELATING TO THE MADRID AGREEMENT
CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS

NOTIFICATION OF PROVISIONAL REFUSAL BASED ON AN OPPOSITION

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:

1535067

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

Figurative mark / verbal elements of the mark: NOVAX

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

Opposition made 18/12/2020 by NOVAX PHARMA SARL, date of the acceptance of the opposition for processing 08/01/2021, on the grounds that the company has earlier trademark registration No 010120038 (copy of the registration enclosed).

The name and the address of the opponent are:

Name: NOVAX PHARMA SARL

Address: 20, Avenue de Fontvielle, "Le Coronado", 98000 Monaco, MC

V. Provision of the Estonian Trademark Act applicable on the subject (enclosed):
Section(s) 10 subsections 1(2), 1(3), Section 41 subsections 2 and 3.

VI. The ground referred to in item IV affects all the goods and services.

VII. The holder of the registration has right to participate in the procedure at the Board of Appeal of Intellectual Property of Estonia.

The request has to be filed through the 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/>

The request for participation in the procedure must be received by the Board of Appeal before the end of the time limit indicated by the Board of Appeal.

The time limit expires 09/04/2021 (dd/mm/yyyy). The extension of the time limit is not possible.

Please note that if the holder of the registration does not request participation in the procedure, the Board of Appeal shall grant the request without justifying its decision in the part in which it is not manifestly unjustified.

VIII. Date on which the provisional refusal was pronounced: 12/01/2021 (dd/mm/yyyy).

IX. Signature of the Office:

Signe Holm
Senior Examiner

Number of continuation sheets: 6

Extract from the Estonian Trademark Act

§ 10. Relative circumstances which preclude legal protection

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

2) trade marks which are identical or similar to an earlier trade mark which has been afforded legal protection with regard to identical goods or services or goods or services of a similar kind designated by the trade mark, if there exists a likelihood of confusion on the part of the consumers, which includes association of the trade mark with the earlier trade mark;

3) trade marks which are identical or similar to an earlier registered trade mark, regardless of whether the earlier trade mark has been afforded legal protection for identical, similar types of or different types of goods or services, if the earlier Estonian trade mark has a reputation in Estonia or if the earlier EU trade mark has a reputation in the European Union and the use without due cause of the later trade mark would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark;

(2) The circumstances specified in clauses (1) 1)–8) of this section which preclude legal protection are not taken into account if the proprietor of the earlier trade mark or another earlier right consents to the grant of legal protection in writing.

§ 11. Earlier trade mark and other earlier rights

(1) An “earlier trade mark” means the following:

6) an EU trade mark registered on the basis of Regulation (EU) 2017/1001 of the European Parliament and of the Council if the filing date of the application, date of priority or the seniority date afforded on the basis of the Estonian registration is earlier;

§ 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.

§ 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.

(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.

§ 70. Processing of international registration

7) Decisions on international registrations made by the Patent Office and the rights of applicants can be contested pursuant to the provisions of this Act, taking account of the specifications arising from the Madrid Protocol and its Common Regulations. The Bureau shall be notified of a contestation and the decision made in the matter.


EUTM file information

NOVAX PHARMA
010120038

Timeline



Trade mark information

Name	NOVAX PHARMA	Filing date	13/07/2011
Filing number	010120038	Registration date	06/06/2012
Basis	EUTM	Expiry date	13/07/2021
Date of receipt	13/07/2011	Designation date	
Type	Figurative	Filing language	English
Nature	Individual	Second language	Italian
Nice classes	5, 10, 42 (Nice Classification)	Application reference	PMA/TN-CTM1573
Vienna Classification	25.07.06, 26.01.96, 26.15.99, 29.01.04 (Vienna Classification)	Trade mark status	Registered 
		Acquired distinctiveness	No

Graphic representation



Goods and services

English (en)	▼
5	Ophthalmic pharmaceutical and ophthalmic veterinary preparations; Sanitary preparations for ophthalmic purposes; Plasters and materials for dressings specifically for use in connection with ophthalmic conditions and their treatment.
10	Surgical, medical and veterinary apparatus and instruments all for use in treating ophthalmic conditions and for use in ophthalmic surgery and ophthalmic medical/veterinary treatment; Artificial eyes; Suture materials adapted specifically for use in ophthalmic procedures.
42	Research and development in the pharmaceutical sector.

Description

English (en)	▼
Description	
Colour	BLUE, WHITE

Owners











NOVAX PHARMA SARL					
ID	466508	Country	MC - Monaco	Correspondence address	☎ Hidden. You can set your contact details to be publicly available via the User Area.
Organisation	NOVAX PHARMA SARL	State/country	n/a	NOVAX PHARMA SARL	
		Town	Monaco	20, Avenue de Fontvielle	
		Post code	98000	MC-98000 Monaco	
Legal status	Legal entity	Address	20, Avenue de Fontvielle, "Le Coronado"	MÓNACO	📠 Hidden. You can set your contact details to be publicly available via the User Area.
					✉ Hidden. You can set your contact details to be publicly available via the User Area.

Representatives

INLEX IP EXPERTISE

ID	13735	Country	ES - Spain	Correspondence address	 Hidden. You can set your contact details to be publicly available via the User Area.
Organisation	n/a	State/county	n/a	INLEX IP EXPERTISE	
Legal status	Legal person	Town	Alicante	Plaza San Cristobal, 14	
Type	Association	Post code	03002	E-03002 Alicante	 Hidden. You can set your contact details to be publicly available via the User Area.
		Address	Plaza San Cristobal, 14	ESPAÑA	 Hidden. You can set your contact details to be publicly available via the User Area.

Correspondence

From	Procedure	Filing number	Subject	Date	Actions
	Recordal	019006025	L601A — Notification of the need to renew a EUTM registration AUTOMATIC	16/12/2020	
	Recordal	013624617	H726A - Notification of entry of a change of representative in the Office - Register and database	04/12/2017	
	Recordal	013624617	H726A - Notification of entry of a change of representative in the Office - Register and database	04/12/2017	
	Recordal	013624617	Application form and attachment	04/12/2017	
	EUTM	010120038	L304 – Cover letter for registration certificate	13/06/2012	
	EUTM	010120038	Certificate	12/06/2012	
	Opposition	001945446	B254B - Notification to the applicant/holder of conclusion of the opposition proceedings following withdrawal of the opposition before the commencement of the adversarial part of the proceedings	04/06/2012	
	Opposition	001945446	B254A - Notification to the opponent of conclusion of the opposition proceedings following the withdrawal of the opposition before the commencement of the adversarial part of the proceedings	04/06/2012	
	Opposition	001945446	Miscellaneous	04/06/2012	
	Opposition	001945446	Letter to the EUIPO	04/06/2012	

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IR transformation

No data

Seniority

No data

Exhibition priority

No data

Priority

No data

Publications

Bulletin number	Date	Section	Description
2011/169	07/09/2011	A.1	Applications published under Article 44 EUTMR (Article 39 EUTMR before 01/10/2017)
2012/108	11/06/2012	B.2	Registrations with amendments since the application was published
2017/231	05/12/2017	C.2.2	Representative - Appointment / Replacement of representative

Showing 1 to 3 of 3 entries

Cancellation

No data

Recordals

Bulletin number	Date	Section	Filing number	Title	Subtitle
			019006025	Renewal	Total Renewal
			005903383	Proprietor	Change of name and address
2017/231	05/12/2017	C.2.2	013624617	Representative	Appointment / Replacement of representative

Showing 1 to 3 of 3 entries

Oppositions

Filing number	Date	Grounds	Opponent	Representative	Language	Reference	Status	Extent of opposition
001945446	07/12/2011	Likelihood of confusion Earlier non registered TM & right to prohibit use of later TM under national law Earlier sign & right to prohibit use of later TM under national law	Novex Pharma Laboratoire SL, Laboratoire Novex Pharma, Novex Pharma Limited, IQVIA IES Europe Limited	MARKS & CLERK LLP	English	PMA/TN-CTM1573	Withdrawn	
001941973	05/12/2011	Likelihood of confusion Unfair advantage /detriment to distinctiveness or repute	Not valid	Not valid	English	PMA/TN-CTM1573	Withdrawn	

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Appeals

No data

Decisions

No data

Renewals

Title	Filing number	Status	Status date
Renewal	019006025	Notification of expiry of trade mark	15/12/2020

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Trade mark relations

No data

InternationalApplications

No data