



REPUBLIC OF SLOVENIA
MINISTRY OF ECONOMIC DEVELOPMENT AND TECHNOLOGY
SLOVENIAN INTELLECTUAL PROPERTY OFFICE

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Ref. No.: 31212-93/2021-1
102SP(434)

Date: 23.07.2021

MADRID PROTOCOL

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

I.	Office making the notification: Slovenian Intellectual Property Office Kotnikova 6 SI-1000 Ljubljana Slovenia
II.	Number of the international registration: 1574744
III.	Name of the holder of the international registration: Biosoft (Australia) Pty Ltd, 14/13a Narabang Way, Belrose, NSW, 2085, AU
IV.	Information concerning the type of provisional refusal: <i>Please indicate the type of refusal by checking only one of the following options:</i> <input checked="" type="checkbox"/> Total provisional refusal based on an <i>ex officio</i> examination
V.	Information concerning the scope of the provisional refusal: Total provisional refusal affects all the goods and/or services.

VI. Grounds for refusal

43 (1) b, c

The mark consists exclusively of the word "DERMAPEN", being a sign which may serve in trade, to designate the kind, purpose and other characteristics of the goods/services.

The mark is devoid of any distinctive character. It is considered that the word "DERMAPEN" should be available for the other manufacturers in the relevant field to use and cannot be monopolized through registration as a trade mark.

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

(i) Time limit for requesting review or appeal:

The holder of the registration may request a review of the provisional refusal. The Slovenian Office must receive the request no later than 3 months * from the date of this provisional refusal (the time limit starts from the date indicated under point IX). After a period the Office will issuing its final decision.

*with the written request the deadline may be extended for 3 months

(ii) Authority to which such request for review or appeal should be made:

Office indicated under I

(iii) Whether the request for review or appeal has to be filed in a specific language and/or through the intermediary of a representative whose address is within the territory of the Contracting Party:

The request for the review must be filed through the intermediary of a representative domiciled in Slovenia. The list of trademark agents is available on <http://www.uil-sipo.si/sipo/addition/resources/patent-and-trademark-agents/>

VIII. Signature or official seal of the Office making the notification: Saša Polc

IX. Date of the notification to the International Bureau: 23.07.2021



X. Corresponding essential provisions of the applicable law:

Article 43
(Absolute grounds for trade mark refusal)

(1) A sign shall not be registered as a trade mark if:

- a) it cannot constitute a trade mark;
- b) it is devoid of any distinctive character;

- c) in trade, it serves solely to designate the type, quality, quantity, intended purpose, value, geographical origin or time of production of the goods or provision of the service or other characteristics of the goods or services;
- d) it consists solely of signs or indications which have become customary in the current language or in the bona fide and established trade practices;
- e) it consists solely of the shape or other characteristic that results from the nature of the goods themselves, is necessary to obtain a technical effect, or gives substantial value to the goods;
- f) it is contrary to public order or morality;
- g) it deceives the public, in particular as to the nature, quality or geographical origin of the goods or services;
- h) it has not been authorised by the competent authorities and must be refused pursuant to Article 6ter of the Paris Convention;
- i) it includes or imitates badges, emblems or escutcheons, other than those covered by Article 6ter of the Paris Convention, that are of particular public interest, unless the competent authorities have given consent to the registration thereof;
- j) it is excluded from the registration in accordance with the legislation of the Republic of Slovenia or the European Union or with international treaties to which the Republic of Slovenia or the European Union are parties which provide protection for designations of origin and geographical indications;
- k) it is excluded from the registration in accordance with the legislation of the European Union or with international treaties to which the European Union is party which provide protection for traditional terms for wine;
- l) it is excluded from the registration in accordance with the legislation of the European Union or with international treaties to which the European Union is party which provide protection for traditional specialities guaranteed;
- m) it consists of a plant variety name that has been previously registered in accordance with the legislation of the Republic of Slovenia or the European Union or with international treaties to which the Republic of Slovenia or the European Union are parties which provide protection for plant variety rights and relates to plant varieties of the same or closely related species or contains the essential elements of such a name.

(2) Notwithstanding points b), c) and d) of the preceding paragraph, a trade mark registration shall not be refused if through use the sign has acquired a distinctive character before the date of filing of the application.