



Notification of 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. Name and address of the Office making the notification:

The Norwegian Patent Office

P.O. Box 8160 Dep., N-0033 Oslo, NORWAY

Telephone: + 47 22 38 73 00

Telefax: + 47 22 38 73 01

II. International registration: 818881 be quiet!

III. Date of Subsequent Designation (if any): (yyyy.mm.dd)

IV. Holder of the international registration:

Listan GmbH & Co KG, Biedenkamp 3 a, 21509, GLINDE, DE

V. The scope of the refusal:

☒ **Provisional refusal for all goods and services**

☐ **Provisional partial refusal for some of the goods - see under X**

VI. Grounds for refusal:

(i) ☒ **Absolute grounds:**

Trademark Act Section 13 - The trademark does not distinguish the goods and the services of the holder from those of others. BE QUIET is an ordinary expression and will not be considered as a trademark.

(ii) ☐ **Relative grounds:**

Likelihood of confusion with:

National registration number(s):

National application number(s):

International registration number(s):

VII. The relevant provisions of the Norwegian Trademarks Act and Regulations are under XI.

VIII. Date of provisional refusal: (yyyy.mm.dd) **2005.04.22.**

Response must be received within: (yyyy.mm.dd) **2005.07.22.**

See more information under X about the time limit and which actions you need to take if you want to request a review of the provisional refusal.

IX. Signature by Office:

THE NORWEGIAN PATENT OFFICE


Kjersti Ostengen

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- X.** The holder of the registration may request a review of the provisional refusal. The Norwegian Patent 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 be filed through the intermediary of a representative domiciled in Norway. Please note that if the Norwegian Patent Office, either subsequent to review or appeal, accept the designation of Norway, a post grant opposition may be filed against the mark within 2 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 50 and 51). The international registration shall be resumed if the holder, through a Norwegian representative, within two months from the expiration of the time limit responds to the provisional refusal and pays the stipulated fee (NOK 600,-). Please note that the Norwegian Patent Office does not send any notifications to the holder that the international registration is abandoned in Norway.

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- XI.** The relevant provisions of the Norwegian Trademarks Act and Regulations regarding the grounds of this provisional refusal:

Section 1

By registration in accordance with the present Act, the exclusive right to use a trademark as a distinctive sign for goods or services of an industrial or commercial establishment may be acquired. A trademark may consist of any sign which is capable of distinguishing the goods or services of one establishment from those of others, and which is capable of being represented graphically, such as words or combinations of words, including slogans, names, figures and pictures, letters and numerals, and the shape of the goods, their get-up and their packaging. The subsequent provisions of this Act made in respect of goods shall also apply to services provided this is not contrary to the context.

Section 13

A trademark which is to be registered must be capable of distinguishing the goods of the holder from those of others. The trademark may not exclusively, or with no more than minor alterations or additions, indicate the kind, quality, quantity, use, price or geographical origin of the goods or the date of their production. In deciding whether a trademark has a distinctive character, however, all factual circumstances shall be taken into consideration, in particular how long and how extensively the trademark has been in use.