ESTONIAN PATENT OFFICE
TRADEMARK DEPARTMENT

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

NOTIFICATION OF *EX OFFICIO* PROVISIONAL REFUSAL

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 62 77 931
Telefax: + 372 62 77 912

II. Number of the international registration which is the subject of the provisional refusal:
832140

III. Other information concerning the international registration which is the subject of the provisional refusal:verbal elements of the mark: **bello**

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

1.The trademark is confusingly similar to the following trademarks, which are registered for similar kind of goods (copies of the registration enclosed):

BELLA registered 30.09.1999 (subsequent designation date 25.04.2001) under the number 726301;
bella cotton (fig.) registered 28.08.2001 (application date 08.10.2001) under the number 764339;
bella (fig.) registered 10.12.2003 (application date 25.06.2004) under the number 825036.

The name and the address of the owner of the mark are:
TORUNSKIE ZAKLADY MATERIALÓW OPATRUNKOWYCH SPÓLKA AKCYJNA
Zólkiewskiego 20/26, Torun
PL-87-100, PL

The written consent from the owner of the international trademarks nr 726301 and 764339 is required for protection of the international registration in Estonia.
The written consent from the owner of the international trademark nr 825036 is required after it is protected in Estonia.

2. The trademark is confusingly similar to the following trademark, which is filed for registration for similar kind of goods (copy of the trademark enclosed):

BELLA filed for registration 23.09.2002, under the number 002854479.
The name and the address of the owner of the mark are:
The Sunrider Corporation
1625 Abalone Avenue
90501 Torrance,
UNITED STATES

The written consent from the owner of the above-mentioned CTM is required after its registration for protection of the international registration in Estonia.

V. Provision of the Estonian Trademark Act applicable on the subject (enclosed):
Section 10 subsections 1(2) and subsection 2
Section 11 subsections 1(4), (5) and (7)

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

VII. The owner of the registration may request a review of the provisional refusal. The request shall be received by Estonian Patent Office no later than within 4 months from the date of the provisional refusal.
The time limit expires **03/10/2005** (dd/mm/yyyy).

The request has to be filed through the authorized 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/eng/14attorn.htm.

Please note that if the owner of the registration fails to respond by the due date, the registration shall be deemed to be withdrawn for goods and services mentioned in item VI (section 38 subsection 2 of the Estonian Trademark Act). The owner may request that processing be resumed if the owner failed to perform the acts due to force majeure or some other impediment independent of the owner or the representative of the owner (section 47 subsection 3 of the Estonian Trademark Act).

Please note that if the mark is protected subsequent to reviewal of the provisional refusal an interested person may contest the owners right to a trade mark within two months as of the publication of the trade mark (section 41 subsection 2 of the Estonian Trademark Act).

VIII. Date on which the provisional refusal was pronounced: 01/06/2005 (dd/mm/yyyy).

IX. Signature of the Office:

Janika Kruus
Head of the Second International Trademark Examination Division

Number of continuation sheets: 5

Toompuiestee 7, 15041 Tallinn, tel 627 7931

Extract from the Estonian Trademark Act

§ 10. Relative circumstances which preclude legal protection

(1)Legal protection shall not be granted to the following trade marks:

2)trade marks which are identical or similar to an earlier trade mark which has been granted 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 public, which includes association of the trade mark with the earlier trade mark.

(2)Circumstances specified in clauses (1) 2)-6) 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 registration of the later trade mark in writing.

§ 11. Earlier trade mark and other earlier rights

(1)"Earlier trade mark" means the following:

4)a trade mark which is valid in Estonia on the basis of the Madrid Protocol if the date of international registration or date of priority is earlier.

5)a trade mark filed for registration on the basis of the Madrid Protocol if the date of international registration or date of priority is earlier. A trade mark filed for registration is an earlier trade mark only if legal protection for the trade mark is not refused in Estonia.

7)a Community trade mark filed for registration on the basis of the Community trade mark Regulation if the date of filing of the application, priority date or the seniority date granted on the basis of Estonian registration is earlier; A trade mark filed for registration shall be an earlier trade mark only if it is registered.

§ 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 agent as the person's representative to perform acts related to trade marks in the Patent Office and the Industrial Property Board of Appeal, except the filing of an application.

§ 38. Examination of trade marks

(2) If an examination reveals circumstances which preclude the legal protection of a trade mark, the Patent Office shall notify the applicant thereof and set a term of at least two months for the elimination of the said circumstances or the provision of explanations. If the applicant fails to respond by the due date, the application shall be deemed to be withdrawn.

§ 41. Adjudication of appeals and revocation applications

(2)An interested person may contest an applicant's right to a trade mark in the Industrial Property Board of Appeal if circumstances specified in subsection 9 (1) or § 10 of this Act which preclude legal protection exist. The term for the filing of a revocation application is two months as of the publication of the notice of the decision to register a trade mark.

§ 47. Withdrawal of applications, termination and resumption of processing

(3) An applicant may request that processing be resumed if the Patent Office terminated processing having deemed the application to be withdrawn pursuant to § 37, 38 or 46 of this Act and if the applicant failed to perform the acts due to force majeure or some other impediment independent of the applicant or the representative of the applicant.

§ 69. Effect of international registration

(1)Legal protection arising from an international registration valid in Estonia is equal to legal protection arising from a national registration and the rights and obligations arising from an internationally registered trade mark are equal to those arising from a nationally registered trade mark.

Toompuiestee 7, 15041 Tallinn, tel 627 7931

31.05.2005

Estonian Patent Office

[210] **Application No:** R200102360

[220] **Application Date:** 25.06.2001

[111] **Registration No:** 726301

[151] **Registration Date:** 30.09.1999

[891] **Subsequent Designation:** 25.04.2001

[551] Ordinary

[566] Verbal

[732] **Owner:**

TORUNSKIE ZAKLADY MATERIALÓW OPATRUNKOWYCH SPÓLKA AKCYJNA
Zólkiewskiego 20/26, Torun
PL-87-100, PL

[526] **Disclaimer:**

[740] **Agent:**

Olga Treufeldt
Patendibüroo TURVAJA OÜ
Liivalaia 22
10118 Tallinn, EE

[591] **Colour Claim:**

Legal Status: ITM - registreeritud

[511] **Classes and List of Goods and Services:**

5 Sanitary napkins, napkins for incontinents, panty liners, sanitary products, sanitary and gynecological media, absorbent cotton and products made of wadding for medical purposes, menstruation tampons, sanitary towels.

16 Paper handkerchiefs, toilet paper, disposable diaper-pants made of paper or cellulose, disposable babies' napkins of paper or cellulose, paper towels.

24 Tissues of textile for removing make-up, textile handkerchiefs.

25 Babies' diapers of textile.

[540] BELLA

31.05.2005

Estonian Patent Office

210 **Application No:** R200103708

220 **Application Date:** 08.10.2001

111 **Registration No:** 764339

151 **Registration Date:** 28.08.2001

551 Ordinary

566 Combined

732 **Owner:**

TORUNSKIE ZAKLADY MATERIALÓW OPATRUNKOWYCH SPÓLKA AKCYJNA
Zólkiewskiego 20/26, Torun
PL-87-100, PL

526 **Disclaimer:**

kaubamärgi registreerimine ei anna ainuõigust sõna COTTON kasutamiseks.

740 **Agent:**

Olga Treufeldt
Patendibüroo TURVAJA OÜ
Liivalaia 22
10118 Tallinn, EE

591 **Colour Claim:**

Tumesinine, sinine, kollane ja valge.

Legal Status: ITM - registreeritud

511 **Classes and List of Goods and Services:**

5 Cotton wool and goods of cotton wool.

540 bella cotton

31.05.2005

Estonian Patent Office

210 **Application No:** R200402211

220 **Application Date:** 25.06.2004

111 **Registration No:** 825036

151 **Registration Date:** 10.12.2003

551 Ordinary

566 Combined

732 **Owner:**

TORUNSKIE ZAKLADY MATERIALÓW OPATRUNKOWYCH SPÓLKA AKCYJNA
ul. Zólkiewskiego 20/26, Torun
PL-87-100, PL

526 **Disclaimer:**

740 **Agent:**

591 **Colour Claim:**

tume meresinine, valge

Legal Status: ITM - avaldamiseks

511 **Classes and List of Goods and Services:**

3 Cotton wool and cotton wool products for cosmetic purposes, hygienic hankies impregnated with cosmetic liquid shampoo.

5 Sanitary towels, panty liners, hygienic and gynaecological towels, hygienic tissue, dressing gauze, compresses, dressing, supporting dressing, diapers for incontinents, hygienic bandages, dressing bandages, cotton and wool and cotton products for hygienic and medical purposes, hygienic towels, hygienic panties, hygienic panties for incontinents, sticking plasters, self-adhesive plasters, maternity inserts, surgical fabrics, sterility tests, disposable packaging (filled) used for sterilization purposes; menstruation tampons.

16 Disposable paper tissue, toilet paper, disposable diapers made from paper and cellulose, disposable diapers for babies and children made from paper and cellulose, paper towels, paper napkins for make-up removal, paper napkins, paper pouches, adhesive tapes, disposable tape reels for stationery, for packaging.

540 bella

Overview
Trade mark
Graphic representation
List of goods and services
Description of the mark
Owner
Representative
Seniority
Exhibition priority
Priority
Publication
Opposition
Cancellation
Appeals
Recordals
Download trade mark details
Link to CTM Bulletin On-line

CTM-ONLINE - Detailed trade mark information

List of results

Trade mark name :	BELLA
Trade mark No :	002854479
Trade mark basis:	CTM
Number of results:	1 of 1

<< Previous | Next >>

Trade mark

Filing date:	23/09/2002
Nice Classification:	5, 29 (Nice classification)
Trade mark:	Individual
Type of mark:	Word
Acquired distinctiveness:	No
Date of last status:	21/08/2003
Status of trade mark:	Opposition pending (Glossary) (History of statuses)
Filing language:	English
Second language:	German

Graphic representation

No entry for application number: 002854479.

List of goods and services

Nice Classification:	5
List of goods and services	Medicaments, pharmaceutical preparations, veterinary preparations and chemical preparations for the hygiene; dietetic substances and nutritional replacement adapted for medical use; food for babies; preparations on the basis of vitamines, trace elements and/or minerals for dietetic purposes or as nutritional supplementation; preparations and substances for dental and dental technical purposes; nutritional concentrates, in particular on the basis of herbs; herbal teas; all for health care purposes; nutritional supplements.
Nice Classification:	29
List of goods and services	Non-medical nutritional concentrates or nutritional supplements on herbal basis; herbal-based foods and sauces, processed food, grain and seed bars; processed fruits, vegetables, and herbs, mixed snacks, food drinks, dehydrated food powder, sauces, food mixes, fruit-based snacks; nut and seed snacks, snacks, soups; and blends of processed fruits and herbs.

Description

Description of the mark:	Description is not available in this language

Owner

Name:	The Sunrider Corporation
ID No:	107693
Natural or legal person:	Legal entity
Address:	1625 Abalone Avenue
Post code:	90501
Town:	Torrance,
Country:	UNITED STATES
Correspondence address:	The Sunrider Corporation 1625 Abalone Avenue Torrance, CA 90501 ESTADOS UNIDOS (DE AMÉRICA)

Representative

Name:	MEISSNER, BOLTE & PARTNER
ID No:	11094
Address:	Widenmayerstr. 48
Post code:	80538
Town:	München
Country:	GERMANY
Correspondence address:	MEISSNER, BOLTE & PARTNER P.O. Box 86 06 24 D-81633 München ALEMANIA
Telephone:	00 49-892121860
Fax:	00 49-8921218670
E-mail:	**mail@mbp.de**

Seniority

No entry for application number: 002854479.

Exhibition priority

No entry for application number: 002854479

Priority

Country:	UNITED STATES
Number of basic application:	76/392,296
Filing date of basic application:	05/04/2002
Trade mark status:	Accepted

Publication

Bulletin no.:	052/2003
Date of publication:	23/06/2003
Part:	A
Page:	396

Opposition

Opposition No:	000642605
Reception date:	22/09/2003
Opponent name:	Hofer KG
Opponent ID No:	147791