



**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: 1 (2)
- 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:
833818
- III. Other information concerning the international registration which is the subject of the provisional refusal: verbal elements of the mark: **NASH (fig.)**
- IV. The grounds for this provisional refusal are the following:
- The trademark is similar with the following trademark, which is registered for similar kind of goods in classes 7, 9 and 11 (copy of the registration enclosed):
- NASH**, registered with the priority date of 26.02.2003, International registration number 810285. The name and the address of the owner of the mark are:
- Owner: STOCKSHOP HOLDING APS
Address: Hoyrups Alle, 9
Hellerup DK-2900
Country: DK
- V. Provision of the Estonian Trademark Act applicable on the subject (enclosed):
Section 10 subsection 1(2) and subsection 2.
- VI. The ground referred to in item IV affects **all 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 **28/11/2005** (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note that if the owner of the registration fails to respond by the due date, the registration shall be deemed to be withdrawn for goods and services mentioned in item VI (section 38 subsection 2 of the Estonian Trademark Act).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 review 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: **27/07/2005** (dd/mm/yyyy).

IX. Signature of the Office:

E. K. Erilaid

Ekke-Kristian Erilaid

Senior Examiner of The First International Trademark Examination Division



20.07.2005

Estonian Patent Office

210 Application No: R200304248 **220 Application Date:** 20.10.2003
111 Registration No: 810285 **151 Registration Date:** 22.08.2003
300 Priority: 26.02.2003, VA 2003 00790, DK **551 Ordinary**
566 Verbal

732 Owner:

STOCKSHOP HOLDING APS
Høyrups Allé 9, Hellerup
DK-2900, DK

740 Agent:

526 Disclaimer:

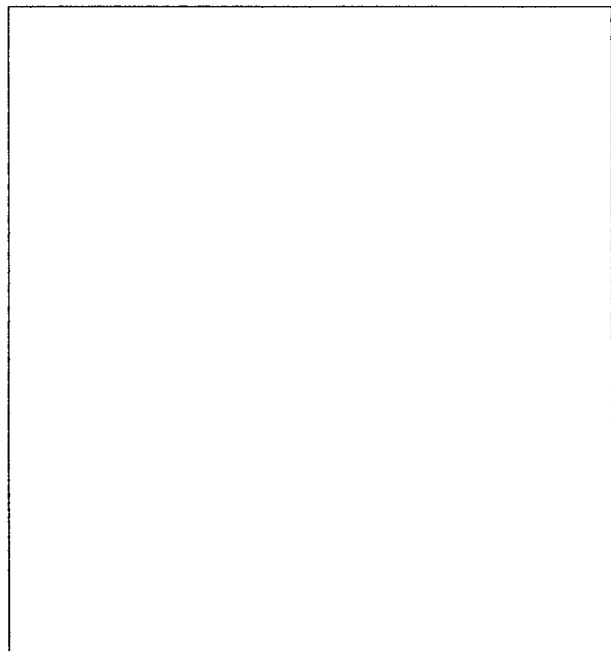
591 Colour Claim:

Legal Status: ITM - registreeritud

511 Classes and List of Goods and Services:

540 NASH

- 7 Food processors (electric), vacuum cleaners.
- 9 Apparatus for recording, transmission and reproduction of sound and/or images, loudspeakers, amplifiers and CD players.
- 11 Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.



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.

§ 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 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 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.

§ 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.

§ 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.