



**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 62 77 931
Telefax: + 372 62 77 912**

II. Number of the international registration which is the subject of the provisional refusal:
826595

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

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

Opposition made on 01.09.2005 by HOUSE OF PRINCE A/S on the grounds that:

The company has an earlier trademark registration No 820304 in class 34 (copy of the registration enclosed) for similar kind of goods as the international registration No 826595 and the two marks are confusingly similar.

The name and the address of the opponent are:

Name: HOUSE OF PRINCE A/S
Address - Tobaksvejen 4
Søborg DK-2860
DK

V. Provision of the Estonian Trademark Act applicable on the subject (enclosed):
Section(s) 10 subsection 2 and 5

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

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 agent of the Republic of Estonia (section 13 subsection 2 of the Estonian Trademark Act). List of patent agents is available at <http://www.epa.ee/eng/14attorn.htm>.

The request for participation in the procedure, written observations and the power of attorney must be received by the Board of Appeal no later than within 3 months from the date of the acceptance of the opposition for processing.

Name and address of the Board of Appeal:

Board of Appeal of Intellectual Property
Ministry of Economic Affairs and Communications
Harju str. 11
15072 Tallinn
ESTONIA

The time limit expires 09/12/2005 (dd/mm/yyyy). The extension of the time limit is not possible.

Please note that the matter will be examined by the Board of Appeal even if the holder of the registration does not request participation in the procedure at the Board of Appeal.

VIII. Date on which the refusal was pronounced: 14/09/2005 (dd/mm/yyyy).

IX. Signature of the Office:



Karol Rummi

Head of the First International Trademark Examination Division

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:
- 2) a registered trade mark if the filing date of the application or the date of priority 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 agent as the person's representative to perform acts related to trade marks in the Patent Office and Industrial Property 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.

§ 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.

§ 70. Processing of international registration

- (7) Decisions on international registrations made by the Patent Office and the rights of applicants shall 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.



12.09.2005

Estonian Patent Office

210 Application No: R200401266

220 Application Date: 08.04.2004

111 Registration No: 820304

151 Registration Date: 14.01.2004

551 Ordinary

566 Verbal

732 Owner:

HOUSE OF PRINCE A/S
Tobaksvejen 4, Søborg
DK-2860, DK

526 Disclaimer:

740 Agent:

591 Colour Claim:

Legal Status: ITM - registreeritud

511 Classes and List of Goods and Services:

540 RAMBLER

34 Tobacco, cigarettes, smokers articles, matches.

