



**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:

828572

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

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

1. The trademark is associated with the following national trademarks which are filed for registration or registered for similar kind of services in classes 35, 38 and 41 (copies of the registrations enclosed):

**SKY (fig.), registered 05.11.1997 (priority date 06.02.1996) under the number 24752;
SKY RADIO, registered 14.07.2005 (priority date 17.10.2001) under the number 41371;
SKY ROCK, application No M200200176 (priority date 12.02.2002).**

The name and the address of the owner of the marks are:

**Owner - Taevaraadio AS
Address - Pärnu mnt 139c
11317 Tallinn
Country - EE**

SKY MEDIA, registered 16.05.2002 (priority date 31.01.2001) under the number 36188.

The name and the address of the owner of the mark are:

**Owner - First Media Holding AS
Address - Pärnu mnt 139c**

11317 Tallinn
Country - EE

The written consent from the above-mentioned owner of the national trademarks is required for protection of the international registration in Estonia.

2. The trademark is identical to the following international registration which is registered for similar kind of goods in class 9 (copy of the registration enclosed). Therefore the trademark can not be accepted in Estonia in class 9.

SKY, registered 04.05.2001 (priority date 01.02.2001) under the number 757820.

The name and the address of the owner of the mark are:

Owner - SKY MEDIATEC SA
Address - via Balestra 9, Lugano
CH-6900
Country - CH

V. Provision of the Estonian Trademark Act applicable on the subject (enclosed):

1. Section 10 subsections 1(2) and 2;
Section 11 subsection 1(2) and 1(3).
2. Section 10 subsections 1(2) and 2;
Section 11 subsection 1(4).

- VI. 1. The ground referred to in item IV.1. affects all services in classes 35, 38 and 41.
2. The ground referred to in item IV.2. affects all goods in class 9, except *sunglasses*.

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 30/01/2006 (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: 28/09/2005 (dd/mm/yyyy).

IX. Signature of the Office:

A handwritten signature in black ink, appearing to read 'Maris Verbiaš', with a large, stylized initial 'M'.

Maris Verbiaš
Senior Examiner of the Second 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;

3) a trade mark filed for registration if the filing date of the application or the date of priority is earlier. A trade mark filed for registration shall be an earlier trade mark only if it is registered.

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.

§ 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.

§ 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 pf 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.



22.09.2005

Estonian Patent Office

210 Application No: 9600260

220 Application Date: 06.02.1996

111 Registration No: 24752

151 Registration Date: 05.11.1997

300 Priority: 06.02.1996

551 Ordinary

566 Combined

732 Owner:

Taevaraadio AS
Akadeemia tee 24
EE0026 Tallinn, EE

526 Disclaimer:

740 Agent:

591 Colour Claim:

Legal Status: Registrisse kantud

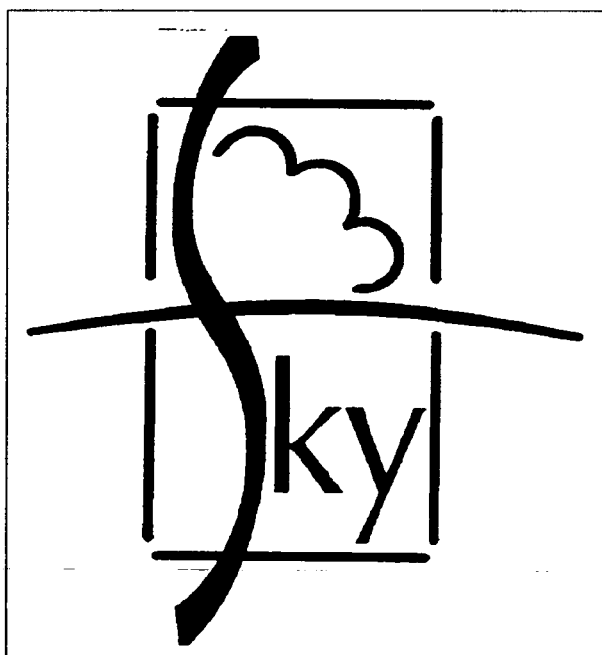
511 Classes and List of Goods and Services:

540 SKY

35 reklaam, äriinformatsioon; reklaami ja teadete levitamine, jaotamine; avaliku arvamuse kujundamine; raadioreklaam.

38 raadiosaated, raadiolevi, ringhäälingusaated; infoedastus; uudisteagentuurid.

41 meelelahutus, ajaviide, lõbustus; meelelahutusteave, puhketeave, raadioprogrammide tegemine (produtseerimine); raadio meelelahutus-, lõbustusaated (raadiomeelelahutus); lindistusstuudioteenused; helisalvestiste üürimine (laenutus).





22.09.2005

Estonian Patent Office

210 Application No: M200101620

220 Application Date: 17.10.2001

111 Registration No: 41371

151 Registration Date: 14.07.2005

300 Priority: 17.10.2001

551 Ordinary

566 Verbal

732 Owner:

Taevaraadio AS
Pärnu mnt 139c
11317 Tallinn, EE

526 Disclaimer:

kaubamärgi registreerimine ei anna ainuõigust sõna RADIO kasutamiseks.

740 Agent:

Aivo Arula
Patendibüroo Käosaar & Co OÜ
Tähe 94
50107 Tartu, EE

591 Colour Claim:

Legal Status: Registrisse kantud

511 Classes and List of Goods and Services:

540 SKY RADIO

- 35 reklaam, äriinformatsioon; reklaami ja teadete levitamine, jaotamine; avaliku arvamuse kujundamine, raadioreklaam.
- 38 raadiosaated, raadiolevi, ringhäälingusaated; infoedastus; uudisteagentuurid.
- 41 meelelahutus, ajaviide, lõbustus; meelelahutusteave, puhketeave, raadioprogrammide valmistamine; raadio meelelahutus- ja lõbustusaated; lindistusteenused; helisalvestiste üürimine.





22.09.2005

Estonian Patent Office

210 Application No: M200200176

220 Application Date: 12.02.2002

300 Priority: 12.02.2002

551 Ordinary

566 Verbal

731 Applicant:

Taevaraadio AS
Pärnu mnt 139c
11317 Tallinn, EE

526 Disclaimer:

740 Agent:

Aivo Arula
Patendibüroo Käosaar & Co OÜ
Tähe 94
50107 Tartu, EE

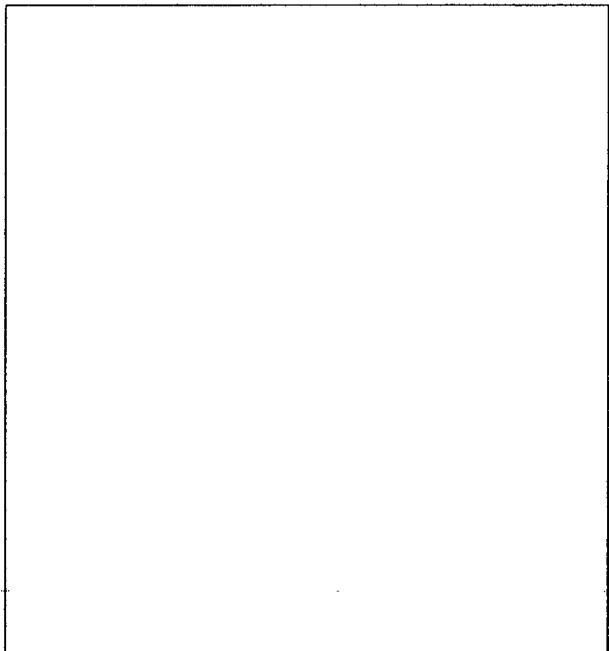
591 Colour Claim:

Legal Status: Vaidlustusavaldus avaldamise otsuse peale, apell. komisjonis

511 Classes and List of Goods and Services:

540 SKY ROCK

41 meelelahutus, ajaviide, lõbustus; meelelahutusteave; klubiteenused (meelelahutus), õõklubi; pidude korraldamine (meelelahutus); ballide, tantsupidude korraldamine; diskoteenused; esinemiste korraldamine; etenduste lavastamine, produtseerimine.





22.09.2005

Estonian Patent Office

210 Application No: M200100211

220 Application Date: 31.01.2001

111 Registration No: 36188

151 Registration Date: 16.05.2002

300 Priority: 31.01.2001

551 Ordinary

566 Verbal

732 Owner:

First Media Holding AS
Pärnu mnt 139c
11317 Tallinn, EE

526 Disclaimer:

kaubamärgi registreerimine ei anna ainuõigust sõna MEDIA kasutamiseks.

740 Agent:

Aivo Arula
Patendibüroo Käosaar & Co OÜ
Tähe 94
50107 Tartu, EE

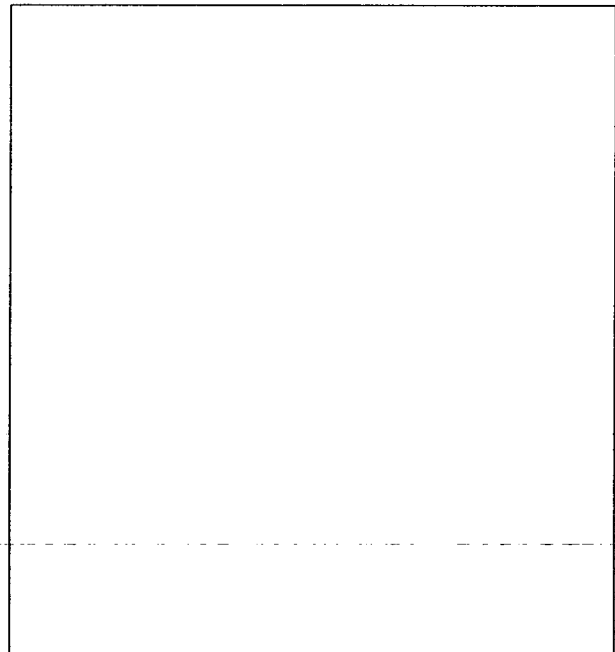
591 Colour Claim:

Legal Status: Registrisse kantud

511 Classes and List of Goods and Services:

540 SKY MEDIA

- 35 reklaam, äriinformatsioon, reklaami ja teadete levitamine ning jaotamine, avaliku arvamuse kujundamine, raadioreklaam.
- 38 raadiosaated, raadiolevi, ringhäälingusaated, infoedastus, uudisteagentuurid.
- 41 meelelahutus, ajaviide, lõbustus, meelelahutusteave, puhketeave, raadioprogrammide produtseerimine, raadio meelelahutus- ja lõbustusaated, lindistusstuudioteenused, helisalvestiste üürimine.





22.09.2005

Estonian Patent Office

210 Application No: R200102418

220 Application Date: 16.07.2001

111 Registration No: 757820

151 Registration Date: 04.05.2001

300 Priority: 01.02.2001, 483221, CH

551 Ordinary

566 Verbal

732 Owner:

SKY MEDIATEC SA
via Balestra 9, Lugano
CH-6900, CH

526 Disclaimer:

740 Agent:

591 Colour Claim:

Legal Status: ITM - registreeritud

511 Classes and List of Goods and Services:

540 SKY

9 Electronic data media, particularly compact disks.

