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:
843663

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

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

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

CLEARSTICK registration date 24.02.1999 (filing date 04.04.1997), under the number 000507780.
The name and the address of the owner of the mark are:
Hermal Kurt Herrmann GmbH & Co OHG
Scholtzstr.3
21465 Reinbek, DE

The written consent from the owner of the above mentioned CTM is required 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 (6)

VI. The ground referred to in item IV. affects all goods in **class 3** and following goods in **class 1**:
chemicals preparation for agricultural, garden and forestry purposes.

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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 **16/03/2006** (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note that if the owner of the registration fails to respond by the due date, the registration shall be deemed to be withdrawn for goods and services mentioned in item VI (section 38 subsection 2 of the Estonian Trademark Act).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 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: 16/11/2005 (dd/mm/yyyy).

IX. Signature of the Office:

Külli Sooden
Senior Examiner of the Trademark Examination Division

Number of continuation sheets: 3

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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:

6) a Community trade mark registered 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.

§ 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 fling 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.

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CTM-ONLINE - Detailed trade mark information

List of results

Trade mark name :	CLEARSTICK
Trade mark No :	000507780
Trade mark basis:	CTM
Number of results:	1 of 1

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Trade mark

Filing date:	04/04/1997
Date of registration:	24/02/1999
Expiry Date:	04/04/2007
Nice Classification:	3, 5 (Nice classification)
Trade mark:	Individual
Type of mark:	Word
Acquired distinctiveness:	No
Date of last status:	29/03/1999
Status of trade mark:	Registration published (Glossary) (History of statuses)
Filing language:	English
Second language:	French

Graphic representation

No entry for application number: 000507780.

List of goods and services

Nice Classification:	3
List of goods and services	Bleaching preparations and other substances for laundry use, cleaning, polishing, scouring and abrasive preparations, soaps, perfumery, essential oils, cosmetics, hair lotions, dentifrices.
Nice Classification:	5
List of goods and services	Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use, food for babies; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

Description

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

Owner

Name:	Hermal Kurt Herrmann GmbH & Co OHG
ID No:	49068
Natural or legal person:	Legal entity
Address:	Scholtzstr. 3
Post code:	21465
Town:	Reinbek
Country:	GERMANY
Correspondence address:	Hermal Kurt Herrmann GmbH & Co OHG Scholtzstr. 3 D-21465 Reinbek ALEMANIA

Representative

Name:	Margaret Morris
ID No:	5564
Address:	Group Intellectual Property
Post code:	NG90 4GR
Town:	Nottingham
Country:	UNITED KINGDOM
Correspondence address:	The Boots Company PLC Margaret Morris Group Intellectual Property Nottingham NG90 4GR REINO UNIDO
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Seniority

Country:	BENELUX
Registration number:	522821
Status:	Accepted
Country:	DENMARK
Registration number:	4784/1994
Status:	Accepted
Country:	SPAIN
Registration number:	1723551
Status:	Accepted
Country:	SPAIN
Registration number:	1723552
Status:	Accepted
Country:	FINLAND
Registration number:	128531
Status:	Accepted
Country:	FRANCE
Registration number:	92435727
Status:	Accepted
Country:	UNITED KINGDOM
Registration number:	B1513765
Status:	Accepted
Country:	UNITED KINGDOM
Registration number:	B1513766
Status:	Accepted
Country:	IRELAND