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:

846495

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

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

The trademark is likely to be confused with the following trademark, which is registered for similar kind of goods in class 5 (copy of the registration enclosed):

PLATELIN, registered 24.03.1994 (priority date 27.01.1972) under the number 09525. The name and the address of the owner of the mark are:
Owner - ORGANON TEKNIKA B.V.
Address - BOSEIND 15
5281 RM Boxtel
Country - NL

The written consent from the above-mentioned owner of the trademark is required for protection of the trademark in Estonia.

V. Provision of the Estonian Trademark Act applicable on the subject (enclosed):
Section 10 subsection 1(2) and subsection 2, section 11 subsection 1(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 **30/03/2006** (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note that if the owner of the registration fails to respond by the due date, the registration shall be deemed to be withdrawn for goods and services mentioned in item VI (section 38 subsection 2 of the Estonian Trademark Act).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: 30/11/2005 (dd/mm/yyyy).

IX. Signature of the Office:



Kati Vinter
Senior Examiner of the First International Trademark Examination Division

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:

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 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.

25.11.2005

Estonian Patent Office

210 **Application No:**	9305420	220 **Application Date:**	17.06.1993
111 **Registration No:**	09525	151 **Registration Date:**	24.03.1994
300 **Priority:**	27.01.1972, 44995, SU	551 Ordinary	
		566 Verbal	

732 **Owner:**

Organon Teknika B.V.
Boseind 15
5281 RM Boxtel, NL

526 **Disclaimer:**

740 **Agent:**

Urmas Kernu
AAA Patendibüroo OÜ
Tartu mnt 16
10117 Tallinn, EE

591 **Colour Claim:**

Legal Status: Lõplikult registrisse kantud (5a möödas)

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

5 diagnostilised keemilised ained, mida kasutatakse inimorganismi ainevahetusproduktide analüüsil.

540 PLATELIN