



**ESTONIAN PATENT OFFICE  
TRADEMARK DEPARTMENT**

**THE PROTOCOL RELATING TO THE MADRID AGREEMENT  
CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS**

**NOTIFICATION OF *EX OFFICIO* PROVISIONAL REFUSAL  
(CORRECTION)**

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:  
**712220**
- III. Other information concerning the international registration which is the subject of the provisional refusal: Verbal elements of the mark: **SUISS**
- IV. The grounds for this provisional refusal are the following:
- The word **SUISS** (a not considerably altered version of the french word **SUISSE**; engl. **SWITZERLAND**) is not distinctive for all goods, because it only indicates the geographical origin of the goods.
- The registration cannot be accepted, because the word **SUISS** (a not considerably altered version of the french word **SUISSE**) in the mark is of such nature as to deceive the customer as to the geographical origin of the goods.
- The word **SUISS** is not distinctive for all goods, because it is devoid of any distinctive character.
- Therefor the above trademark can not be registered in Estonia.**
- V. Provision of the Estonian Trademark Act applicable on the subject (enclosed):  
Section 9 subsections 1(2), 1(3) and 1(6).
- VI. The grounds referred to in item IV affect **all goods**.

- VII. The owner of the registration may request a review of this corrected provisional refusal. The request shall be received by Estonian Patent Office no later than within 2 months from the date of the corrected provisional refusal.

The time limit expires **22/02/2006** (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note that if the owner of the registration fails to respond by the due date, the registration shall be deemed to be withdrawn for goods and services mentioned in item VI (section 38 subsection 2 of the Estonian Trademark Act).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: **21/12/2005** (dd/mm/yyyy).

- IX. Signature of the Office:

*E. K. Erilaid*

Ekke-Kristian Erilaid

Senior Examiner of The First International Trademark Examination Division

## **Extract from the Estonian Trademark Act**

### **§ 9. Absolute circumstances which preclude legal protection**

(1) Legal protection shall not be granted to the following signs:

2) signs which are devoid of any distinctive character, including single letters in non-stylised form, single numbers in non-stylised form and single colours;

3) signs which consist exclusively of signs or indications which designate the kind, quality, quantity, intended purpose, value or geographical origin of the goods or services, the time of production of the goods or of rendering of the services, or other characteristics of the goods or services, or which describe the goods or services in another manner, or which consist of the above-mentioned signs or indications which are not considerably altered;

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### **§ 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.

## **Extract from the Estonian Trademark Act**

### **§ 9. Absolute circumstances which preclude legal protection**

(1) Legal protection shall not be granted to the following signs:

6) signs which are of such a nature as to deceive the consumer as to the kind, quality, quantity, intended purpose, value or geographical origin of the goods or services, the time of production of the goods or of rendering of the services, or other characteristics of the goods or services.

### **§ 13. Representative for performing acts related to legal protection of trade marks**

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## Notification

712 220 (SUISS).

**The total provisional refusal of protection by Estonia of  
July 27, 2005 should be considered as null and void (See No  
33/2005).**

*Date of notification:* 02.03.2006

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## Notification

712 220 (SUISS).

**Le refus provisoire total de protection de l'Estonie du 27 juillet 2005 doit être considéré comme nul et non avenu (Voir No. 33/2005).**

*Date de notification:* 02.03.2006

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## Notificación

712 220 (SUISS).

**La denegación provisional total de protección de Estonia de 27 de julio de 2005 debe considerarse nula y sin efecto (Véase No. 33/2005).**

*Fecha de notificación:* 02.03.2006

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