

THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE  
INTERNATIONAL REGISTRATION OF MARKS**EX OFFICIO PROVISIONAL REFUSAL OF PROTECTION ACCORDING TO  
RULE 17 (2)**

I. National office that notifies the refusal of protection:

The Swedish Patent and Registration Office  
Trademarks Sections  
Box 530  
S-826 27 SÖDERHAMN  
Sweden

Telephone: int + 46 8 782 25 00  
Telefax: int + 46 270 173 51

II. Number and wording of the international registration which is subject to refusal: 827830,  
sixtyseven by mustang

III. Grounds for refusal:

☐ The mark is not distinctive.

☒ Confusingly similar to the national mark(s): MUSTANG, reg. no. 365561  
Holder: MUSTANG - Bekleidungswerke GmbH + Co. KG, Austrasse 10, D-74653 Künzelsau, DE

☒ Confusingly similar to the mark(s) under the Madrid Protocol: 1) MUSTANG, reg. no. 484304,  
2) MUSTANG, reg. no. 590588, 3) MUSTANG, reg. no. 602643, 4) MUSTANG, reg. no. 657694,  
5) Mustang, reg. no. 783602  
Holder: 1) to 5) MUSTANG - Bekleidungswerke GmbH + Co. KG, Austrasse 10, D-74653 Künzelsau, DE

☒ Confusingly similar to the Community Trademark(s): MUSTANG, reg. no. 357178  
Holder: MUSTANG - Bekleidungswerke GmbH + Co. KG, Austrasse 10, D-74653 Künzelsau, DE

☐ Other grounds:

IV. Provisions of the Swedish Trademarks Act (enclosed) : Article 14 par. 1, 6), 8) and 9)

V. ☒ Refusal for all the goods and services

VI. The holder of the registration may request a review of the refusal. The request must be received by the Swedish Patent and Registration Office no later than 3 (three) months after the date of the refusal, that is 25-04-2006. The request must be filed in Swedish.  
Please note that if the designation is accepted subsequent to a review or an appeal, an opposition may be filed against the mark within 2 (two) months of the publication of the mark.  
Oppositions may be filed after the end of the 18-month period (Article 5(2)(c)(i) of the Protocol, Rule 16(1). Information concerning the dates on which the opposition period begins and ends will be communicated at the same time as the notification of a provisional refusal on an opposition.

VII. Date of the notification of the provisional refusal: 25-01-2006

VIII. Signature by the Office: Håkan Bodin

**THE SWEDISH PATENT AND REGISTRATION OFFICE**

*Håkan Bodin*

Number of continuation sheets: 8

**REGISTRERAD**

<b>Registeringsnummer:</b>	365561	<b>Registreringsdatum:</b>	2004-02-20
<b>Ansökningsnummer:</b>	2003/01525	<b>Ingivningsdatum:</b>	1997-01-03

**MUSTANG****Klassificering:**

**25:** Skor, med undantag av sport Skor.

**Innehavare:**

MUSTANG - Bekleidungswerke GmbH + Co. KG, Austrasse 10, DE-74653 KÜNZELSAU, Tyskland

**Ombud:**

Gotapatent Aktiebolag, Box 154, 561 22 HUSKVARNA, Sverige,  
Org.nr: 556129-9768

**GODKÄND LAGA KRAFT**

<b>Registeringsnummer:</b>	484304	<b>Registrerad hos WIPO:</b>	1984-03-28
<b>Ansökningsnummer:</b>	484304	<b>Designeringsdatum:</b>	2001-07-14

**MUSTANG****Klassificering:**

**25:** Footwear, with the exception of sports and gymnastic shoes or shoes used in connection with equestrian sport.

**Innehavare:**

MUSTANG - Bekleidungswerke GmbH. + Co. KG, Austrasse 10, D-74653 Künzelsau, Germany

**Ombud:**

Gotapatent Aktiebolag, Box 154, 561 22 MUSKVARNA, Sverige,  
Org.nr: 556129-9768

**WIPO Ombud:**

Beyer & Jochem Patentanwälte Kiettenbergstrasse 13 D-60322 Frankfurt Germany

## GODKÄND LAGA KRAFT

**Registeringsnummer:** 590588 **Registrerad hos WIPO:** 1992-09-02  
**Ansökningsnummer:** 590588 **Designersdatum:** 1996-09-18  
**Figurklasser:** 27.05.01

# MUSTANG

**Klassificering:**

- 14:** Jewelry; clocks and watches.
- 16:** Paper and goods made from paper, cardboard and goods made from cardboard, and not included in other classes; printed matter; photographs; stationery, artists' materials, namely, articles for drawing, painting and modelling; paintbrushes; instructional and teaching material (except apparatus); playing cards.
- 18:** Leather and imitation leather and goods made of these materials and not included in other classes; trunks and travelling bags; umbrellas, parasols and walking sticks; saddlery.
- 25:** Clothing, footwear, headgear.
- 28:** Games and playthings; gymnastic and sporting articles not included in other classes with the exception of golf gloves, golf clubs and golf bags; and with the exception of stationary exercise bicycles.

**Innehavare:**

MUSTANG - Bekleidungswerke GmbH. + Co. KG, Austrasse 10, D-74653 Künzelsau, Germany

**Ombud:**

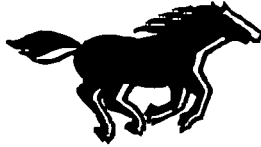
Gotapaten Aktiebolag, Box 154, 561 22 HUSKVARNA, Sverige,  
Org.nr: 556129-9768

**WIPO Ombud:**

Beyer & Jochem Patentanwälte Klettenbergstrasse 13 D-60322 Frankfurt Germany

## OAVGJORD

**Registreringsnummer:** 602643 **Registrerad hos WIPO:** 1993-05-13  
**Ansökningsnummer:** 602643 **Designeringsdatum:** 2002-07-05  
**Figurklasser:** 03.03.01



# MUSTANG

**Klassificering:**

- 9:** Spectacles, sunglasses.
- 14:** Jewellery, watches.
- 18:** Goods made of leather or imitation leather, namely bags and small leather goods, in particular purses, wallets, key cases, handbags, shopping bags, travelling sets.
- 25:** Clothing, in particular clothing of leather, sportswear, anoraks, jeans, trousers, jackets, jumpers, shirts, tee-shirts, neckscarves, woolly hats, ties, shoes, belts for clothing.

**Innehavare:**

MUSTANG - Bekleidungswerke GmbH. + Co. KG, Austraße 10, D-74653 Künzelsau, Germany

**Ombud:**

Gotapatent Aktiebolag, Box 154, 561 22 HUSKVARNA, Sverige,  
Org.nr: 556129-9768

**WIPO Ombud:**

Beyer & Jochem Patentanwälte Klettenbergstrasse 13 D-60322 Frankfurt Germany

**GODKÄND LAGA KRAFT**

**Registeringsnummer:** 657694 **Registrerad hos WIPO:** 1996-02-21  
**Ansökningsnummer:** 657694 **Designeringsdatum:** 1997-03-01  
**Figurklasser:** 27.05.01

# MUSTANG

**Klassificering:**

- 9:** Phonograph records, compact discs, music and video cassettes, optical and magnetic media for images and sound; sound and image reproduction apparatus; apparatus for entertainment purposes in the form of accessory parts for television set receivers; automated devices for entertainment; computers for computer games; computer games as accessory apparatus for television set receivers; printing optical and magnetic media; data storage media, including printed matter and computer programs, especially computer game programs; electronic journals, training or teaching material (except apparatus) in the form of computer game programs, films and sound, text, and image recordings on data media.
- 14:** Objects made of precious metals, their alloys or coated therewith, namely handicrafts, ornamental objects, tableware (except cutlery), table centrepieces, ashtrays, cigar and cigarette cases, cigar and cigarette holders; jewelry, precious stones; fashion jewelry, cuff links, tie pins.
- 16:** Paper, cardboard; paper and cardboard products, namely packaging containers, packaging pouches, pocket handkerchiefs, towels, table napkins; printed matter, newspapers, photographs, stationery; training or teaching material (except apparatus) in the form of printed matter and games.
- 18:** Goods made of leather and imitations of leather, namely handbags and other cases not adapted to the products which they are to contain as well as small leather items, especially purses, pocket wallets, key cases, labels; shopping bags, sports bags, briefcases, school bags, rucksacks, trunks and suitcases, umbrellas and lawn umbrellas.
- 24:** Fabrics, textile fabrics, curtains, blinds, household linen, table and bed linen; table and bed covers; textile handkerchiefs; fabrics of imitation animal skins and non-woven textile fabrics.
- 25:** Clothing, corsetry articles, sportswear; leather clothing, belts (clothing), shoe wear, sports shoes, headwear.
- 26:** Lace and embroidery, ribbons and braid, buttons, hooks and eyes, pins and needles, zippers, belt clasps; top-knots (passmenterie); artificial flowers.
- 28:** Games, toys; electric and electronic games; electronic games (other than those adapted for use with television receivers only); gymnastic and sporting apparatus; special bags for sporting articles.
- 32:** Beer, mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices.
- 38:** Broadcasting of radio and television programs; broadcasting of entertainment programs, texts, images and music via transmission sets and communication networks; transmission of sound, images, texts, data and computer programs via satellite, radio, data networks and cable systems.
- 41:** Film production, rental and projection of motion-picture films; production of radio and television broadcasts; planning of entertainment events, namely musical performances, literary readings, theatre performances, art exhibitions; publishing and editing of books, newspapers and journals; organisation of cultural exhibitions.
- 42:** Restaurant and catering services; programming, especially in relation to computer game and data processing programs; leasing access time to a computer data base.

**Innehavare:**

MUSTANG Bekleidungswerke GmbH + Co, 10, Austrasse,, D-74653 Künzelsau, Germany

**Ombud:**

Gotapatent Aktiebolag, Box 154, 561 22 HUSKVARNA, Sverige,  
 Org.nr: 556129-9768

**WIPO Ombud:**

Patentanwälte Beyer & Jochem P.O. Box 18 02 04 D-60083 Frankfurt am Main Germany

**WIPO Korrespondensadress:**

**GODKÄND LAGA KRAFT**

<b>Registreringsnummer:</b>	783602	<b>Registrerad hos WIPO:</b>	2002-06-15
<b>Ansökningsnummer:</b>	783602	<b>Designeringsdatum:</b>	2002-06-15

## Mustang

**Klassificering:**

- 14:** Watches, jewellery, cuff links, tie pins; goods of precious metal and their alloys or goods coated therewith, namely handicraft objects, decorative objects.
- 25:** Clothing, including knitted clothing, with the exception of sports clothing; hosiery, with the exception of hosiery for sports; shoes, boot slippers, with the exception of sports shoes; headgear, with the exception of headgear for sports.

**Prioritet:**

Begärd från Tyskland, 2001-12-21, 301 72 988.3/25

**Innehavare:**

MUSTANG - Bekleidungswerke GmbH. + Co. KG, Austrasse 10, D-74653 Künzelsau, Germany

**Ombud:**

Gotapatent Aktiebolag, Box 154, 561 22 HUSKVARNA, Sverige,  
Org.nr: 556129-9768

**WIPO Ombud:**

Beyer & Jochem Patentanwälte Klettenbergstrasse 13 D-60322 Frankfurt Germany

## REGISTRERAD

Registreringsnummer:

Registreringsdatum:

2003-02-06

Ansökningsnummer:

000357178

Ansökningsdatum:

1997-01-03

## MUSTANG

## Klassificering:

- 14:** Varor av ädelmetall eller deras legeringar eller överdragna därmed, nämligen konsthantverk, prydnadsföremål, bordsserviser (ej bestick), servisuppsättningar, askfat, cigarr- och cigarettetuier, cigarr- och cigarettmunstycken; smycken, ädelstenar; modesmycken, manschettknappar, slipsnålar.
- 18:** Lädervaror och läderimitationer, nämligen väskor och andra behållare ej anpassade för speciellt innehåll, samt småvaror av läder, speciellt portmonnäer, plånböcker, nyckelfodral, läderetiketter; handväskor, shoppingväskor, sportväskor och -påsar, dokumentväskor, skolväskor med axelremmar, ryggsäckar, koffertar och resväskor, paraplyer och parasoller.
- 25:** Kläder, korsetter, sportkläder, kläder av läder, bälten, huvudbonader.

## Innehavare:

MUSTANG - Bekleidungswerke GmbH. + Co. KG, Austr. 10, 74653 Künzelsau, Germany

## Ombud:

BEYER &amp; JOCHEM, Klettenbergstr. 13, 60322 Frankfurt am Main, Germany



## Extract from the Swedish Trademarks Act

**Article 2.** An exclusive right in a trademark is acquired also without registration when the mark has been established on the market.

**Article 6.** Symbols shall be deemed to be confusingly similar under this Act only if they relate to goods of the same kind or a similar kind.

Confusing similarity may be invoked also for the benefit of a symbol, which has a reputation in this country if the use of another similar symbol would take unfair advantage of, or would be detrimental to, the distinctive character or reputation of the symbol having the reputation.

**Article 13.** A trademark may be registered only if it is distinctive. A mark which, exclusively or with only minor changes or additions, indicates the kind, quality, quantity, use, price or geographical origin of the goods or the date of their production shall not in itself be deemed to be distinctive. In the assessment of whether a mark is distinctive consideration shall be given to all circumstances and in particular to the scale and the time of the use of the mark. A symbol consisting exclusively of a shape which results from the nature of the goods or of a shape which is necessary to obtain a technical result or of a sign which gives a substantial value to the goods may not be registered as a trademark.

**Article 14.** A trademark may not be registered:

- 1) if the mark contains such a State emblem or international emblem or such a local authority coat of arms which under existing laws or regulations may not be used, without permission, as a trademark, or anything that may be easily confused therewith;
- 2) if the mark is likely to deceive the public;
- 3) if the mark is otherwise contrary to laws or regulations or public order or is likely to cause offence;
- 4) if the mark contains or consists of elements which are likely to convey the impression of being another person's trade name or the family name, artistic name or similar name of another person, or another person's portrait, unless the name or the portrait obviously relates to a person who is long deceased;
- 5) if the mark contains an element which is likely to convey the impression of being the title of another person's protected literary or artistic work, where the title is distinctive, or which would violate another person's copyright in a literary or artistic work or another person's right in a photographic picture or in a design;
- 6) if the mark is confusingly similar to a name or a trade name which is being used in the course of another person's business activities or to another person's trademark which is registered on the basis of an earlier application, or to another person's trade symbol which is established on the market when the application for registration is filed;
- 7) if the mark is confusingly similar to a trade symbol which, at the time of the application, is being used by another person and the applicant had knowledge about that use at the time of the application and had not used the mark before the other symbol was first used;
- 8) if the mark is confusingly similar to a trademark covered by an international registration with effect in Sweden and for which the date referred to in Article 55, second paragraph, precedes the date of the application.

9) if the mark is confusingly similar to a Community trademark owned by another person which is registered on the basis of an earlier application.

In cases referred to in items 4), 5), 6), 7) 8) and 9) the registration may nevertheless be effected if the person whose right is involved gives his consent and there are no other obstacles according to the provisions of the first paragraph. ---

**Article 15.** An exclusive right in a trademark acquired through registration does not include such elements of the mark, which can not by them be registered.

**Article 21.** Following an opposition, the Registration Authority shall invalidate the registration if there is an obstacle to it. If there is an obstacle only in respect of part of the goods listed in the registration, the Registration Authority shall, instead, if the trademark owner so desires, invalidate the registration only as regards those goods.

The Registration Authority shall refuse the opposition if there is no obstacle to the registration.

A notice shall be published when the decision of the Registration Authority concerning the opposition has taken legal force. If the decision implies that the registration is invalidated wholly or in part, this fact shall be recorded in the register.

**Article 54.** If the National Trademark Authority receives a notification from the International Bureau to the effect that a person other than one referred to in Article 51 has requested an extension of the territorial effect of an international registration of a mark to Sweden, the Authority shall examine whether there is an obstacle to admitting such an effect.

Such an obstacle exists if the trademark referred to in the international registration does not fulfil the requirements under Article 13 or if an obstacle to a national registration would have existed according to Article 14.

**Article 55.** If there is an obstacle to the registration according to Article 54, second paragraph, the National Trademark Authority shall, within 18 months from the date of the notification referred to in Article 54, first paragraph, notify the International Bureau that the international registration can not have effect in Sweden and state the grounds therefore.

**Article 56.** After the expiry of the time limit indicated in Article 55, third paragraph, the National Trademark Authority shall, if there is no obstacle to it, decide that the international registration shall have effect in Sweden. When that decision has taken legal effect, the trademark shall be entered into the register and a notice of this fact be published.

If there is an obstacle to admitting the effect in Sweden of the international registration, the National Trademark authority shall decide that the international registration shall not have any effect in this country. The decision shall indicate the grounds which have determined the result. If the National Trademark Authority has not previously transmitted a notification under Article 55, first paragraph, it shall communicate the decision to the International Bureau within 18 months from the date of the notification referred to in Article 54, first paragraph, or, if the time period indicated in Article 55, third paragraph, expires later, within one month from the expiry of that period. In the latter case, the National Trademark Authority shall, within 18 months from the date of the notification referred to in Article 54, first paragraph, notify the International Bureau that a decision as just referred to may be communicated later. When the decision that the international registration shall not have any effect in Sweden has taken legal force, a notice of this fact shall be published.