PATENTSTYRET®
Norwegian Patent Office

Notification of Provisional Refusal based on an Ex Officio Examination (to WIPO)
Pursuant to Rule 17(2) of the Common Regulations under the Madrid Agreement concerning the international registration of marks and the Protocol relating to that Agreement.

I. **Name and address of the Office making the notification:**
The Norwegian Patent Office
P.O. Box 8160 Dep., N-0033 Oslo, NORWAY
Telephone: + 47 22 38 73 00
Telefax: + 47 22 38 73 01

II. **International registration:** 843663 Cleanstick

III. **Date of Subsequent Designation (if any):** (yyyy.mm.dd)

IV. **Holder of the international registration:**
Jemako International GmbH, Robert-Bosch-Straße 4, 46414, RHEDE, DE

V. **The scope of the refusal:**

[ ] **Provisional refusal for all goods and/or services**

[X] **Provisional partial refusal for some of the goods - see under X**

VI. **Grounds for refusal:**

(i) [X] Absolute grounds: **Trademark Act Section 13.**
The trademark is considered to be devoid of any distinctive character and/or it can be used in trade to designate the goods and/or the services in question. The mark consists of the term Cleanstick, which is made up of the words Clean and Stick. As a whole, the mark immediately reads as a stick with the purpose of cleaning or making something clean. This applies to certain goods claimed in class 21 of the international registration, namely "brushes, cleaning utensils and apparatus... for household and kitchen purposes". The mark has not been composed in a sufficiently unusual way to overcome this; in fact, placing the words together merely understates the descriptive meaning of the mark. Consequently, on these grounds, it must be refused for the said goods.

(ii) [X] Relative grounds: **Trademark Act Section 14.1.6.**
Likelihood of confusion with:

National registration number:
160300 CLEARSTICK

VII. You will find more information about the conflicting mark(s) (if any) enclosed under XIII. The relevant provisions of the Norwegian Trademarks Act and Regulations are under XII.

VIII. Date of provisional refusal: (yyyy.mm.dd) **2006.01.27**
Response must be received within: (yyyy.mm.dd) **2006.04.27**
See more information under XI about the time limit and which actions you need to take if you want to request a review of the provisional refusal.

IX. Signature by Office:
THE NORWEGIAN PATENT OFFICE
Thomas David Nicholson

(National reference no.: 200502695) Number of continuation sheets: 2

X. Scope of the provisional refusal in respect of goods:

If the holder does not contest the refusal within 3 months, protection is given for:

Classes 1 and 8 as filed

Class 21 limited to: ***Material for brush-making; steelwool; glass, unworked and semi-worked (except building glass); glassware, porcelain and earthenware included in this class.***

The international registration will be published for protection with the above-reduced list of goods.

Rapid publication of the limited list
If the holder accepts the proposed limitation of the goods/services, and wishes a publication of the mark for these goods/services as soon as possible, he/she may confirm this in writing to the Norwegian Patent Office. If the Norwegian Patent Office does not receive any such confirmation from the holder, the mark will however be published for protection of the limited list of goods/services, after the expiry of all the time limits.

XI. The holder of the registration may request a review of the provisional refusal. The Norwegian Patent Office must receive the request no later than 3 months from the date of this provisional refusal (The time limit is indicated under point VIII). Such request must be filed through the intermediary of a representative domiciled in Norway. Please note that if the Norwegian Patent Office, either subsequent to review or appeal, accept the designation of Norway, a post grant opposition may be filed against the mark within 2 months from the publication of the mark.

If the holder does not respond to this provisional refusal within the time limit, the international registration shall be considered abandoned in Norway for the goods/services that are excluded (Trademark Act Section 50 and 51). The international registration shall be resumed if the holder, through a Norwegian representative, within two months from the expiration of the time limit responds to the provisional refusal and pays the stipulated fee (NOK 650,-). Please note that the Norwegian Patent Office does not send any notifications to the holder that the international registration is abandoned in Norway.

XII. The relevant provisions of the Norwegian Trademarks Act and Regulations regarding the grounds of this provisional refusal:

Section 1

By registration in accordance with the present Act, the exclusive right to use a trademark as a distinctive sign for goods or services of an industrial or commercial establishment may be acquired. A trademark may consist of any sign which is capable of distinguishing the goods or services of one establishment from those of others, and which is capable of being represented graphically, such as words or combinations of words, including slogans, names, figures and pictures, letters and numerals, and the shape of the goods, their get-up and their packaging. The subsequent provisions of this Act made in respect of goods shall also apply to services provided this is not contrary to the context.

Section 13

A trademark which is to be registered must be capable of distinguishing the goods of the holder from those of others. The trademark may not exclusively, or with no more than minor alterations or additions, indicate the kind, quality, quantity, use, price or geographical origin of the goods or the date of their production. In deciding whether a trademark has a distinctive character, however, all factual circumstances shall be taken into consideration, in particular how long and how extensively the trademark has been in use.

Trademarks which consist exclusively of the shape of the goods or their packaging may not be registered if the shape or the packaging results from the nature of the goods themselves, is necessary to obtain a technical result, or imparts considerable value to the goods.

Section 14

A trademark may not be registered if:

1. it is contrary to law or public order or is liable to cause offence;
2. it is liable to deceive;
3. without authorisation by the competent authorities, it includes official coats of arms, flags or other official emblems or badges, including official national or foreign certification or hallmarks or stamps required for goods identical with or similar to those for which registration is applied, or coats of arms, flags or other emblems, abbreviations or designations of intergovernmental organisations, or international marks, seals or signs the unauthorised use of which is forbidden

by law. Nor shall the trademark be registered if it includes anything liable to be confused with such emblems or badges, etc. as referred to in this section. Foreign emblems or badges, etc., with the exception of flags of States, shall nevertheless not prevent registration until they have been published in a notice in the publication issued by the Patent Office;

4. it includes anything liable to be understood as another person's business name or as another person's name or portrait and which obviously does not refer to a person long dead;
5. it includes anything liable to be understood as the distinguishing title of the protected artistic, literary or musical work of another person, or infringes the copyright to such a work or the photography or design rights of another person;
6. it is liable to be confused with the name or business name of another person or with a trademark registered for another person in accordance with an application filed earlier, or which was established by use for another person at the time when the application for registration was filed;
7. it is liable to be confused with a trademark which someone else has started to use before the applicant, and the applicant was aware of this use when he filed his application for registration;
8. it is liable to be confused with an international registration of a trademark, provided that this registration is effective in Norway in accordance with section 53 from an earlier date than the date of the filing of the application.

In cases as mentioned in subparagraphs 4 to 8 of the first paragraph, registration may nevertheless take place if the holder of the earlier right consents and there are no other obstacles to registration.

Trademarks which consist of or contain geographical indications with respect to wine or spirits, may not be registered for wine and spirits, unless the product has the geographical origin the indication indicates.

Guide to the following INID codes:

(111): National registration number/ International registration number
(151): Date of national registration/Date of international registration
(180): Date of expiry
(210): National application number
(220): National application date /Date of notification
(300): Data relating to priority (if any)
(540): Reproduction of the mark
(541): Indication relating to the nature or kind of mark (in Norwegian)
(546): Indication relating to the nature or kind of mark (in Norwegian)
(571): Description of the mark
(730): Name of the holder
(740): Power of attorney
(511): List of goods and services
(450): Date of publication

XIII. Prior marks cited ex officio:

(111) **Reg.nr.:** **160300**
(151) **Reg.dato.:** 1993.11.25
(180) **Registreringen utløper:** 2013.11.25
(210) **Søknadsnr.:** 19924828
(300) **Søknadsprioritet** Ingen
(540) **Gjengivelse av merket:**

CLEARSTICK

(541) Merket er et ordmerke i standard font

(571) **Beskrivelse av merket:**
CLEARSTICK
(730) **Innehaver:**
Hermal Kurt Herrmann GmbH & Co , , 21465 REINBEK, DE
(740) **Fullmektig:**
Zacco Norway AS , Postboks 2003 Vika, 0125 OSLO, NO
(511) **Vare-/ tjenestefortegnelse:**
3 Hele klassene.
5 Hele klassene.