

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

EX OFFICIO PROVISIONAL REFUSAL

notified to the International Bureau of the World Intellectual Property Organization (WIPO) according to
Art. 5 of the Madrid Protocol

I. Office refusing protection:

National Board of Patents and Registration of Finland
Trademarks
P.O. Box 1170
FIN-00101 HELSINKI
Telephone: +358-9-6939500
Telefax: +358-9-69395585

II. Number of the international registration which is the subject of the refusal: 901422

III. Other information concerning the international registration which is subject of the refusal:
Verbal elements of the mark: BERTONI (word mark).

IV. The grounds for this refusal are the following:

The trademark is liable to be confused with the following international registration, which is accepted to be valid in Finland:

BERTONI; registered under number 681793 for identical and similar kinds of goods in class 25 (information on international registration designating Finland enclosed).

The trademark is liable to be confused with the following Community trademark:

b BERTONE; registered under number 992115 for identical and similar kinds of goods in class 14. (The enclosed information of the Community trademark is a printout from the CTM-ONLINE database (Community Trade Mark Consultation Service)).

The trademark is liable to be confused with the following Community trademark:

b bertani; registered under number 4557765 for identical and similar kinds of services in class 35. (The enclosed information of the Community trademark is a printout from the CTM-ONLINE database (Community Trade Mark Consultation Service)).

The trademark is liable to be confused with the following Community trademark:

BERTANI; registered under number 4565041 for identical and similar kinds of services in class 35. (The enclosed information of the Community trademark is a printout from the CTM-ONLINE database (Community Trade Mark Consultation Service)).

The trademark is liable to be confused with the following Community trademark application, if it leads to registration or if the Community trademark application is converted into a national trademark application and it leads to registration:

BERTONE; application number 4460192, applied for identical and similar kinds of goods in classes 24 and 25. (The enclosed information of the Community trademark application is a printout from the CTM-ONLINE database (Community Trade Mark Consultation Service)).

- V. Provisions of the Finnish Trademarks Act applicable on the subject (enclosed):
Art. 6 paragraph 1, Art. 14 paragraph 1 item 8
Art. 6 paragraph 1, Art. 14 paragraph 1 item 9
-

- VI. Refusal for all the goods and services in classes 14, 24, 25 and 35. Refusal for the following goods in class 18 "leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides".
-

- VII. The holder of the registration may request a review of the refusal. The request shall be received by the National Board of Patents and Registration of Finland no later than within 16 weeks from the date of the refusal. **The time limit expires 15.08.2007 (dd.mm.yyyy).**

The request, which is to be drawn up in Finnish or Swedish, has to be filed through the intermediary of a representative resident in the European Economic Area.

If the holder of the registration has not within the time limit given above requested for the review, the registration shall not take effect in Finland for the goods/services which are affected by the refusal (Art. 56 b paragraph 3).

If the grounds for this refusal include Community trademarks or Community trademark applications or international registrations they can remain as grounds for this refusal even if the Community trademark or the Community trademark application is converted into a national trademark application and it leads to registration (Art. 57 a and Art. 14 paragraph 1 item 6) or if the international registration is transformed into a national trademark application and it leads to registration (Art. 56 i and Art. 14 paragraph 1 item 6).

Please note that if the designation is accepted subsequent to reviewal or appeal an opposition may be filed against the mark within 2 months of the publication of the mark (Art. 56 c).

Oppositions may be filed after the end of the 18-month period (Art. 5(2)(c)(i) of the Madrid Protocol, Rule 16(1) of the Common Regulations).

- VIII. Date on which the refusal was pronounced: 25.04.2007 (dd.mm.yyyy)
-

- IX. Signature of the Office


Olli Teerikangas
Lawyer
Tel. +358-9-6939 5235



TIETOJA SUOMEEN KOHDISTETUSTA KANSAINVÄLISESTÄ REKISTERÖINNISTÄ
UPPGIFTER OM INTERNATIONELL REGISTRERING VARI FINLAND HAR DESIGNERATS
INFORMATION ON INTERNATIONAL REGISTRATION DESIGNATING FINLAND

Kansainvälinen rekisterinumero - Internationell registernummer - International registration number (111)

681793

Kansainvälinen rekisteröintipvm/myöhemmän laajentamisen pvm - Registreringsdag/dagen för efterföljande designering -
Date of international registration/subsequent designation (151)

02.02.1999

Rekisteröinti päättyy - Registreringen upphör - Registration expires (180)

20.10.2007

Haltija - Innehavare - Holder (732)

BERTONI A/S COMPANY NO. 26 67 90 95, Beder, DK

Tavaramerkki - Varumärke - Trademark (540)

BERTONI

Tavarat/palvelut - Varor/tjänster - Goods/services (511)

Luokka/Klass/Class 25 Clothing, footwear, headgear.

Rekisteröinti kuulutettu: - Registreringen kungjorts: - Registration published:

31.01.2000

Rekisteröinti voimassa Suomessa - Registreringen är giltig i Finland - Registration is valid in Finland

Haltijan ilmoittama osoite - Innehavarens adress enligt anmälan - Reported address of the trademark owner:

Tofteledet 15, DK-8330 BEDER, DK



**OFFICE FOR HARMONIZATION
IN THE INTERNAL MARKET**
TRADE MARKS AND DESIGNS

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CTM-ONLINE - Detailed trade mark information



Trade mark name : b BERTONE
Trade mark No : 000992115
Trade mark basis: CTM
Number of results: 1 of 1



Trade mark

Filing date: 17/11/1998
Date of registration: 03/03/2000
Expiry Date: 17/11/2008
Nice Classification: 11, 12, 14, 42 ([⇒](#) Nice classification)
Trade mark: Individual
Type of mark: Figurative
Vienna Classification: 27.5.21, 27.99.2 ([⇒](#) Vienna Classification)
Acquired distinctiveness: No
Your reference: C001543
Status of trade mark: Registration published ([⇒](#) Glossary)
([⇒](#) History of statuses)
Filing language: Italian
Second language: English

Graphic representation




List of goods and services

Nice Classification: 11
List of goods and services Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

Nice Classification: 12
List of goods and services Vehicles; apparatus for locomotion by land, air or water.

Nice Classification:
List of goods and services

14
Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and chronometric instruments.

Nice Classification:
List of goods and services

42
Design of vehicles and industrial vehicles, construction of the associated finishing and occupant comfort models and dummies in plaster, wood, epowood and other materials, design of bodywork for motor vehicles and industrial vehicles, research into methods of rough, finishing and mechanical pressing, design of assembly and rough, finishing and mechanical pressing equipment, methods of testing production and external supplies, design of welding equipment, design of machines and equipment to remove swarf, servicing and spare parts tables, manufacture of production control and supplier acceptance gauges, manufacture of various rough and finished components, fitting of partial and complete specific components to prototypes, assembly of pre-production vehicles; research, design, planning and consultancy in the specification of any consumer or durable goods, industrial equipment or production methods.

Description	
Description of the mark:	No Description
Owner	
Name:	BERTONE S.p.A.
ID No:	11874
Natural or legal person:	Legal entity
Address:	Corso Peschiera, 223
Post code:	10141
Town:	Torino
Country:	ITALY
Correspondence address:	BERTONE S.p.A. Corso Peschiera, 223 I-10141 Torino ITALIA
Representative	
Name:	JACOBACCI & PARTNERS S.P.A.
ID No:	10139
Address:	Corso Emilia, 8
Post code:	10152
Town:	Torino
Country:	ITALY
Correspondence address:	JACOBACCI & PARTNERS S.P.A. PO Box 321 Torino Centre I-10121 Torino ITALIA
Telephone:	00 39-0112440311
Fax:	00 39-011286300
E-mail:	jpto@jacobacci.com
Seniority	
No entry for application number: 000992115.	
Exhibition priority	
No entry for application number: 000992115	
Priority	
No entry for application number: 000992115.	

Publication

Bulletin no.: 1999/071
Date of publication: 06/09/1999
Part: A.1

Bulletin no.: 2000/035
Date of publication: 02/05/2000
Part: B.1

Opposition

No entry for application number: 000992115.

Cancellation

No entry for application number: 000992115

Appeals

No entry for application number: 000992115.

Recordals

Title: Owners
Sub-title: Change of name and adress of owner
ID No: 000290844

Title: Representative
Sub-title: Change of name and professional address
ID No: 000442213

Renewals

No entry for application number: 000992115.



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CTM-ONLINE - Detailed trade mark information



Trade mark name : BERTANI
Trade mark No : 004565041
Trade mark basis: CTM
Number of results: 1 of 1



Trade mark

Filing date: 27/07/2005
Date of registration: 23/05/2006
Expiry Date: 27/07/2015
Nice Classification: 11, 19, 35 ([↗](#) Nice classification)
Trade mark: Individual
Type of mark: Word
Acquired distinctiveness: No
Your reference: E1.B0020.22.EM.3
Status of trade mark: Registration published ([↗](#) Glossary)
([↗](#) History of statuses)
Filing language: Italian
Second language: English

Graphic representation

No entry for application number: 004565041.

List of goods and services

Nice Classification: 11
List of goods and services: Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

Nice Classification: 19
List of goods and services: Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.

Nice Classification: 35
List of goods and services: Advertising; business management; business administration; office functions.

Description

Description of the mark: No Description

Owner

Name: BERTANI SPA
ID No: 230977
Natural or legal person: Legal entity
Address: Via Daniele da Torricella, 40
Post code: 42100

Town: Reggio Emilia
Country: ITALY
Correspondence address: BERTANI SPA Via Daniele da Torricella, 40 I-42100
Reggio Emilia ITALIA

Representative

Name: BUGNION S.P.A.
ID No: 13138
Address: Via Paolo Borsellino, 22
Post code: 42100
Town: Reggio Emilia
Country: ITALY
Correspondence address: BUGNION S.P.A. Via Paolo Borsellino, 22 I-42100
Reggio Emilia ITALIA
Telephone: 00 39-0522518585
Fax: 00 39-0522518588
E-mail:  reggio@bugnion.it

Seniority

No entry for application number: 004565041.

Exhibition priority


No entry for application number: 004565041

Priority

No entry for application number: 004565041.

Publication

Bulletin no.:  **2005/052**
Date of publication: 26/12/2005
Part: A.1

Bulletin no.:  **2006/026**
Date of publication: 26/06/2006
Part: B.1

Opposition

No entry for application number: 004565041.

Cancellation

No entry for application number: 004565041

Appeals

No entry for application number: 004565041.

Recordals

No entry for application number: 004565041

Renewals

No entry for application number: 004565041.



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CTM-ONLINE - Detailed trade mark information



Trade mark name : b bertani
Trade mark No : 004557765
Trade mark basis: CTM
Number of results: 1 of 1



Trade mark

Filing date: 22/07/2005
Date of registration: 22/05/2006
Expiry Date: 22/07/2015
Nice Classification: 11, 19, 35 ([Nice classification](#))
Trade mark: Individual
Type of mark: Figurative
Vienna Classification: 26.3.1, 26.3.19, 26.3.24, 27.5.21, 27.99.2 ([Vienna Classification](#))
Acquired distinctiveness: No
Your reference: E1.B0020.22.EM.1
Status of trade mark: Registration published ([Glossary](#))
([History of statuses](#))
Filing language: Italian
Second language: English

Graphic representation



List of goods and services

Nice Classification: 11
List of goods and services: Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

Nice Classification: 19
List of goods and services: Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.

Nice Classification: 35
List of goods and services: Advertising; business management; business administration; office functions.

Description**Description of the mark:**

The trademark consists of the wording "b bertani" with the first letter in stylised lower-case print partially enclosed within a triangle..

Owner

Name: BERTANI SPA
ID No: 230977
Natural or legal person: Legal entity
Address: Via Daniele da Torricella, 40
Post code: 42100
Town: Reggio Emilia
Country: ITALY
Correspondence address: BERTANI SPA Via Daniele da Torricella, 40 I-42100 Reggio Emilia ITALIA

Representative

Name: BUGNION S.P.A.
ID No: 13138
Address: Via Paolo Borsellino, 22
Post code: 42100
Town: Reggio Emilia
Country: ITALY
Correspondence address: BUGNION S.P.A. Via Paolo Borsellino, 22 I-42100 Reggio Emilia ITALIA
Telephone: 00 39-0522518585
Fax: 00 39-0522518588
E-mail: reggio@bugnion.it

Seniority

No entry for application number: 004557765.

Exhibition priority

No entry for application number: 004557765

Priority

No entry for application number: 004557765.

Publication

Bulletin no.: **2006/001**
Date of publication: 02/01/2006
Part: A.1

Bulletin no.: **2006/025**
Date of publication: 19/06/2006
Part: B.1

Opposition

No entry for application number: 004557765.

Cancellation

No entry for application number: 004557765

Appeals

No entry for application number: 004557765.

Recordals

No entry for application number: 004557765

Renewals

No entry for application number: 004557765.



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CTM-ONLINE - Detailed trade mark information



Trade mark name : BERTONE
Trade mark No : 004460192
Trade mark basis: CTM
Number of results: 1 of 1



	Trade mark
Filing date:	24/05/2005
Nice Classification:	3, 24, 25 (Nice classification)
Trade mark:	Individual
Type of mark:	Word
Acquired distinctiveness:	No
Your reference:	24218EM
Status of trade mark:	Opposition pending (Glossary) (History of statuses)
Filing language:	German
Second language:	English

Graphic representation

No entry for application number: 004460192.

List of goods and services

Nice Classification:	3
List of goods and services	Perfume, cosmetics.
Nice Classification:	24
List of goods and services	Textiles and textile goods, not included in other classes; bed and table covers.
Nice Classification:	25
List of goods and services	Clothing, footwear, headgear.

Description

Description of the mark: No Description

Owner

Name:	Dr. Alfred Schuh GmbH-Bekleidung-
ID No:	225871
Natural or legal person:	Legal entity
Address:	Helmershäuser Str. 12
Post code:	63624
Town:	Altenstadt
Country:	GERMANY
Correspondence address:	Dr. Alfred Schuh GmbH-Bekleidung- Helmershäuser Str. 12 D-63624 Altenstadt ALEMANIA
Name:	Dr. Alfred Schuh Mode GmbH

ID No: 280451
Natural or legal person: Legal entity
Address: Helmershäuser Str. 12
Post code: 63674
Town: Altenstadt
Country: GERMANY
Correspondence address: Dr. Alfred Schuh Mode GmbH Helmershäuser Str. 12
D-63674 Altenstadt ALEMANIA

Representative

Name: WALTHER, WALTHER & HINZ
ID No: 11388
Address: Heimradstr. 2
Post code: 34130
Town: Kassel
Country: GERMANY
Correspondence address: WALTHER, WALTHER & HINZ Postfach 41 01 45 D-34063 Kassel ALEMANIA
Telephone: 00 49-561969660
Fax: 00 49-5619696619
E-mail: info@herkulespatent.de

Seniority

No entry for application number: 004460192.

Exhibition priority

No entry for application number: 004460192

Priority

No entry for application number: 004460192.

Publication

Bulletin no.: [2005/052](#)
Date of publication: 26/12/2005
Part: A.1

[Opposition](#)

Opposition No: 000985582
Reception date: 27/03/2006
Opponent name: Natural Thoughts, Inc.
Opponent ID No: 180934

Opposition No: 000954448
Reception date: 05/01/2006
Opponent name: Bertoni A/S
Opponent ID No: 84936

Cancellation

No entry for application number: 004460192

Appeals

No entry for application number: 004460192.

Recordals

No entry for application number: 004460192

Renewals

No entry for application number: 004460192.



Disclaimer, and Copyright I

Art. 6.

Trade symbols shall be regarded under this Act as liable to cause confusion only if they apply to goods of identical or similar type. Notwithstanding the foregoing, the confusability of trade symbols may be judged in favor of a symbol that has a reputation in Finland where the use of another's trade symbol without due cause would constitute unfair exploitation of, or action detrimental to, the distinctive character or fame of the earlier trade symbol.

The second paragraph of this Article shall apply also to the auxiliary trade names and secondary symbols referred to in the third paragraph of Article 3.

Art. 13.

To be eligible for registration, a trademark must be capable of distinguishing its proprietor's goods from those of others. A mark that denotes either alone or with only few alterations or additions, the kind, quality, quantity, use, price or place or time of manufacture of the goods shall not, as such, be regarded as distinctive. Neither shall a mark be regarded as distinctive, if it is solely composed of a form that is characteristic of the goods, necessary for achieving a technical result or that substantially increases the value of the goods. In assessing whether a trademark possesses distinguishing power, all the factual circumstances shall be borne in mind, particularly the length of time and extent to which the mark has been used.

Art. 14.

A trademark shall not be registered:

- (1) if it is contrary to law and order, or to morality;
- (2) if it is liable to mislead the public;
- (3) if, without proper permission, it incorporates national armorial bearings, a national flag or other emblem, a sign or hallmark indicating control and warranty used by the State for goods of the same type as those for which the trademark is sought or a similar type, the armorial bearings of a Finnish commune, or the flag, armorial bearings or other emblem, name or abbreviated name of an international organization or any device or emblem, name or abbreviated name liable to be confused with the symbols or emblems, marks, names or abbreviations referred to in this item;
- (4) if it is composed of or contains anything likely to give the impression of being the protected trade name of another or the auxiliary trade name or secondary symbol of another as referred to in the third paragraph of Article 3, or of being the name or likeness of another person, unless such name or likeness plainly relates to a person long dead;
- (5) if it is composed of or contains anything likely to give the impression of being the title of another's protected literary or artistic work, such title being original in character, or if it constitutes an infringement of another's copyright in such a work or of his rights in a photographic illustration or a protected design;
- (6) if it is liable to be confused with the name or protected trade name of another trade, with an auxiliary trade name or secondary symbol of the kind referred to in the third paragraph of Article 3, with the trademark of another which has been registered on the basis of an earlier application or with the trade symbol of another party that is already established when registration is sought;
- (7) if it is liable to be confused with a trade symbol being used by another party for his goods at the time of the application, and if the applicant was aware of that use at the time of his application and had not used his own mark before the other trade symbol came into use;
- (8) if it is liable to be confused with a trademark protected by an international registration valid in Finland or European Community that on basis of this registration enjoys an earlier right in Finland or European Community;
- (9) if it is liable to be confused with a Community trade mark within the meaning of Article 57 that has been registered on the basis of an earlier application or that has seniority from Finland under Article 34 or 35 of the Council Regulation referred to in Article 57;
- (10) if it is liable to be confused with a registered name of a plant variety; or
- (11) if there is an obstacle to registration within the meaning of Council Regulation (EEC) No. 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs.

In the cases referred to in items (4) to (9), registration may be granted if the person whose right is concerned agrees thereto, and provided that the registration does not contravene any of the other provisions of the first paragraph of this Article.

Art. 15.

The exclusive rights in a trademark acquired by registration do not cover any part of the mark that cannot be registered as such.

If the trademark contains any such part and there are special reasons to believe that its registration may cause uncertainty regarding the extent of the exclusive rights granted, protection of the part may be specifically disclaimed when the registration is made.

If a part of a trademark excluded from protection later becomes registrable, a new registration may be made to cover that part or the entire trademark without the exclusion of the part from protection.

Art. 56b paragraph 3.

If the proprietor of an international registration has not within the given time limit submitted his statement commenting on the registration authority's notification referred to in paragraph 1, the international registration shall not take effect in Finland. If the said notification only concerned some of the goods in the international registration, the international registration shall take effect in Finland in respect of those of the goods that the notification did not concern

Art. 56c.

If no obstacle to registration is found, the registration authority shall give public notice of the International Bureau notification referred to in Article 56a as laid down in the first paragraph of Article 20. The public notice shall specify the date accorded to the international registration by the International Bureau.

Any opposition to an international registration in Finland shall be filed in writing with the registration authority within two months of the date of the public notice.