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**O/Ref:** M797407/TM Inter/RDYMO  
**Y/Ref:** International Registration Number 797407  
**Date:** 2 October 2007

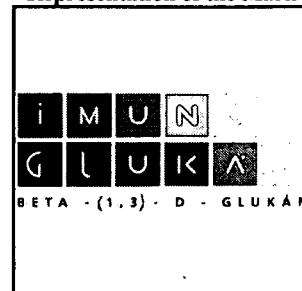
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**Representation of the Mark**



**Please reply by 2 December 2007 quoting our reference.**

Dear Sir or Madam,

**Intl. Reg. No:** 797407 in Classes 05, 29, 35  
**For the Mark:** iMUNO Glukan BETA - (1,3) - D - GLUKÁN (and Device)  
**Holder:** PLEURAN, s.r.o.

**NOTIFICATION OF A PROVISIONAL PARTIAL REFUSAL OF PROTECTION  
(NOT BASED ON AN OPPOSITION) BY THE UNITED KINGDOM  
INTELLECTUAL PROPERTY OFFICE.**

I have provisionally partially refused protection of this mark for some of the goods/services. My reasons are given in the enclosed Examination Report.

I have examined the designation and carried out a search of earlier national trade marks and Community and International trade marks which cover the UK.

The examination report includes a Classification query, in respect of Class 35. The holder may provide further information in support of the designation, or contact me to discuss it.

Please note that if this objection/query is not resolved by the date given above, I will publish it in the Trade Marks Journal, but only for:

Classes 05 and 29 with the specification as filed.

The provisional refusal of all other goods/services will then become final.

I have also identified an earlier mark which I consider to be confusingly similar to this

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designation, you should be aware of this earlier mark.

It is now up to you to decide whether or not you wish your designation to proceed as it stands notwithstanding this earlier mark. However, if you decide to proceed in this way, I am obliged to notify the earlier mark accordingly. Notifications go automatically to UK right holders and also to those EU right holders who have asked to receive notifications.

You should be aware that I take the view that if you do decide to proceed and the earlier mark opposes the registration of your designation, they would have a reasonable chance of success. You should also know that if they were to be successful, this would be likely to result in a costs award against you, which if you contest the opposition could be as much as several thousand pounds. Please also note that if you proceed, your designation will also be published in the Trade Marks Journal to provide any other third party with the opportunity to lodge an opposition.

Yours faithfully,



Richard Dymond  
**Trade Marks Examiner**

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## EXAMINATION REPORT

International Registration No. 797407 in Classes 05, 29, 35 has been examined under the UK Trade Marks Act 1994. References to 'section' in this report mean that section of the Act.

### **Class 05- Information regarding earlier rights**

Based solely on a comparison of the marks and goods, I consider that the earlier mark to be confusingly similar to your designation. If you decide to proceed, I take the view that should this earlier mark oppose the registration of your designation, they would have a reasonable chance of success.

E3914587 (05)

### **Class 35- Specification**

The term '**Intermediary services in commerce relating to the goods included in Classes 5 and 29**' is unacceptable under Section 1(1) and 3(1)(a) of the Act in that it is too vague and lacks legal clarity. As the specification is unclear in this respect, it will not be possible for the sign to distinguish the services of one undertaking from those of another.

To overcome this refusal, you should list the services by name and restrict them, or provide information to show that the list of services accurately describes the range of services for which the mark is used, or going to be used in the UK.

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**(OHIM) E3914587**  
(RGSTRD)

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**E3914587** (05)

Date Filed: 13 September 2004

Publication Date: 31 October 2005

Registration Date: 4 October 2005

## **Imuglucan**

Dietary supplement other than for medical use containing beta glucan.

**NUTRIPHYT NV**, Legeweg 135, Oostkamp, 8020, Belgium.

**Representative:** Celine Depuydt NUTRIPHYT NV, Legeweg 135, Oostkamp, 8020, Belgium.