



**ESTONIAN PATENT OFFICE
TRADEMARK DEPARTMENT**

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

NOTIFICATION OF *EX OFFICIO* PROVISIONAL REFUSAL

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:

951413 | |
| III. | Other information concerning the international registration which is the subject of the provisional refusal:
Verbal elements of the mark: PRIME | |
| IV. | The grounds for this provisional refusal are the following:

1. The word PRIME (first in excellence, quality or value) is not distinctive for all goods, because it only indicates the kind, the quality and the value of the goods.
The word PRIME is not distinctive, because it is devoid of any distinctive character.

Therefore the above trademark can not be registered in Estonia.

2. The trademark is similar with the following trademark, which is registered for similar kind of goods in class 33 (copy of the registration enclosed):

PRIME (fig.) , registered 23.04.2001, OHIM trademark number 001483668. The name and the address of the owner of the mark are:
Owner: DISTILLERIA BONAVENTURA MASCHIO S.R.L. in sigla D.B.M. S.R.L.
Address: Via Vizza N. 6
31018 Gaiarine (Treviso)
Country: IT | |
| V. | Provision of the Estonian Trademark Act applicable on the subject (enclosed):
Section 9 subsections 1(2) and 1(3) (see IV.1).
Section 10 subsection 1(2) and subsection 2. (see IV.2). | |

VI. The grounds referred to in item IV.1 affect **all goods**.
The ground referred to in item IV.2 affects **all goods**.

VII. The owner of the registration may request a review of the provisional refusal. The request shall be received by Estonian Patent Office no later than within 4 months from the date of the provisional refusal.

The time limit expires **17/08/2009** (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/>

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: 15/04/2009 (dd/mm/yyyy).

IX. Signature of the Office:



Ekke-Kristian Erilaid

Senior Examiner of the First International Trademark Examination Division

OFFICE FOR HARMONIZATION
IN THE INTERNAL MARKET
TRADE MARKS AND DESIGNS

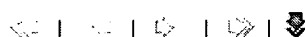
ES | DE | FR | IT

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CTM-ONLINE - Detailed trade mark information



Trade mark name : PRIME
Trade mark No : 001483668
Trade mark basis: CTM
Number of results: 1 of 1



Trade mark



Filing date: 31/01/2000
Date of registration: 23/04/2001
Expiry Date: 31/01/2010
Nice Classification: 33 ([⇒](#) Nice classification)
Trade mark: Individual
Type of mark: Figurative
Vienna Classification: 27.5.1 ([⇒](#) Vienna Classification)
Acquired distinctiveness: No
Applicant's reference: 702.096
Status of trade mark: CTM registered ([⇒](#) Glossary)
CTM registration published (B1) ☒
([⇒](#) History of statuses)
Filing language: Italian
Second language: English

Graphic representation



PRIME

List of goods and services



Nice Classification: 33
List of goods and services: Alcoholic beverages (except beers).

Description	
Description of the mark:	Description is not available in this language

Owner	
Name:	DISTILLERIA BONAVENTURA MASCHIO S.R.L. in sigla D.B.M. S.R.L.
ID No:	20698
Natural or legal person:	Legal entity
Address:	Via Vizza N. 6
Post code:	31018
Town:	Gaiarine (Treviso)
Country:	ITALY
Correspondence address:	DISTILLERIA BONAVENTURA MASCHIO S.R.L. in sigla D.B.M. S.R.L. Via Vizza N. 6 I-31018 Gaiarine (Treviso) ITALIA
Telephone:	39043475182
Fax:	00390434758678

Representative	
Name:	Gabriella Diana Modiano
ID No:	4355
Address:	Via Meravigli, 16
Post code:	20123
Town:	Milano
Country:	ITALY
Correspondence address:	Gabriella Diana Modiano Via Meravigli, 16 I-20123 Milano ITALIA
Telephone:	00 39-0285907777
Fax:	00 39-02863860

Seniority	
No entry for application number: 001483668.	

Exhibition priority	
No entry for application number: 001483668	

Priority	
No entry for application number: 001483668.	

Publication	
Bulletin no.:	2000/077
Date of publication:	25/09/2000
Part:	A.1
Bulletin no.:	2001/047
Date of publication:	28/05/2001
Part:	B.1

Opposition	
No entry for application number: 001483668.	

Cancellation	
No entry for application number: 001483668	

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;

§ 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

§ 10. Relative circumstances which preclude legal protection

- (1) Legal protection shall not be granted to the following trade marks:
 - 2) trade marks which are identical or similar to an earlier trade mark which has been granted legal protection with regard to identical goods or services or goods or services of a similar kind designated by the trade mark, if there exists a likelihood of confusion on the part of the public, which includes association of the trade mark with the earlier trade mark;
- (2) Circumstances specified in clauses (1) 2)-6) of this section which preclude legal protection are not taken into account if the proprietor of the earlier trade mark or another earlier right consents to the registration of the later trade mark in writing.

§ 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.

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