



W211

OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET  
(TRADE MARKS AND DESIGNS)

Trade Marks Department

Alicante, 15/10/2009

**Notification of provisional refusal of protection based on an opposition pursuant to Article 5 of the Madrid Protocol and Rule 17 (1), (2) of the Common Regulations under the Madrid Agreement and Protocol and to Rule 115\***

<b>International Registration No:</b>	<b>0984297</b>
Date of notification to OHIM:	11-12-2008
Trade mark:	VULKAN
Applicant/Holder:	Ritzio Entertainment Group Limited Diagorou 4, Kermia Building, Office 601 CY-1097 Nicosia
<i>Opposition number:</i>	B 1543779

Protection of the above-mentioned mark is provisionally refused for the European Community.

The provisional refusal is based on the fact that an opposition has been filed against the international registration.

I. The grounds for the opposition are as follows:

Conflict with an earlier mark and likelihood of confusion (Article 8(1) and (2) CTMR\*\*).

II. Name and address of the opposing party:

**VULKAN - Medical, a.s.**  
**U Gumovky 379**  
**CZ-46334 Hrádek nad Nisou**  
**REPÚBLICA CHECA**

III. The opposition is based on a mark which was the subject of an application or registration.

- type of mark : **National registered CZ mark.**
- filing date, registration date and, if applicable, priority date:  
28/02/1997; 28/12/1998
- filing number and, if different, registration number: 119913
- reproduction of the mark: (see annex)
- list of goods and services on which the opposition is based: (see annex)

\*Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 207/2009 on the Community trade mark (codified version of Council Regulation (EC) No 40/94).

\*\* Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark.

Regulations on the internet:

CTM (<http://oami.europa.eu/en/mark/aspects/reg.htm>)  
(<http://oami.europa.eu/en/mark/madrid/default.htm>)

Madrid Protocol

III. The provisional refusal relates to only to the following goods and services covered by the designation of the EC:

Class 21

Gloves for household purposes.

V. The OHIM will notify the opposition separately to the holder of the international registration, including all evidence on which it is based, pursuant to Rule 18(1)\*. The OHIM will set time limits for the holder. The notification will open an (extendable) cooling-off period of two months and a further period of two months for the opponent to substantiate the opposition. The notification will set a time limit of, in principle, six months for the holder of the international registration to submit observations.

MARIA JOSE GIL  
Examiner

Annex: Opposition notice of 3 pages.



## OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET (OHIM)

## NOTICE OF OPPOSITION

Number of pages (including this one) <input type="text" value="3"/>		Opponent's/representative's reference number (not more than 20 characters) OZ 445		Mod.007																				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;"><b>Opponent</b></td> <td style="width: 15%;">ID number <input type="text"/></td> <td colspan="2"><input type="checkbox"/> multiple opponents</td> </tr> <tr> <td colspan="4"> <b>Name of legal entity or first name and surname</b>  VULKAN - Medical, a.s. </td> </tr> <tr> <td colspan="4"> <b>Tel, fax, e-mail</b>  </td> </tr> <tr> <td colspan="4"> <b>Address</b>  Street and number  City and postal code  Country  Postal address (if different)  Nationality </td> </tr> <tr> <td colspan="4"> U Gumovky 379  Hrádek nad Nisou 46334  CZ  CZ </td> </tr> </table>					<b>Opponent</b>	ID number <input type="text"/>	<input type="checkbox"/> multiple opponents		<b>Name of legal entity or first name and surname</b> VULKAN - Medical, a.s.				<b>Tel, fax, e-mail</b> 				<b>Address</b> Street and number City and postal code Country Postal address (if different) Nationality				U Gumovky 379 Hrádek nad Nisou 46334 CZ CZ			
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Type of representative <input type="checkbox"/> legal practitioner <input checked="" type="checkbox"/> professional representative <input type="checkbox"/> association of representatives <input type="checkbox"/> employee																								
<b>Challenged application</b> CTMA / IR No <input type="text" value="000984297"/> Date of publication (DD/MM/YYYY) <input type="text" value="15 / 12 / 2008"/>																								
<b>Name of CTM applicant or IR holder</b> <input type="text" value="Ritzio Entertainment Group Limited"/> <b>Language of the opposition</b> <input type="checkbox"/> ES <input type="checkbox"/> DE <input checked="" type="checkbox"/> EN <input type="checkbox"/> FR <input type="checkbox"/> IT																								
<b>Extent of the opposition</b> <input type="checkbox"/> against all the goods and services in the application <input checked="" type="checkbox"/> against part of the goods and services in the application, namely: <div style="border: 1px solid black; padding: 5px; min-height: 40px;"> "gloves for household purposes" in class No. 21 </div> <div style="text-align: right;"><input type="checkbox"/> continuation sheet(s)</div>																								
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"> <b>Payment of fee</b>  Total <input type="text" value="€ 350"/> </td> <td style="width: 50%;"> <b>Signature</b>  Name <input type="text" value="Lukáš Diabáček, professional representative"/>  Signature <div style="display: flex; align-items: center;"> <div> <b>Mgr. Lukáš Diabáček</b>  patentový zástupce  Božanova 5  CZ, 618 00 Brno </div> </div> <div style="margin-top: 10px;">12/08/2009</div> </td> </tr> </table>					<b>Payment of fee</b> Total <input type="text" value="€ 350"/>	<b>Signature</b> Name <input type="text" value="Lukáš Diabáček, professional representative"/> Signature <div style="display: flex; align-items: center;"> <div> <b>Mgr. Lukáš Diabáček</b>  patentový zástupce  Božanova 5  CZ, 618 00 Brno </div> </div> <div style="margin-top: 10px;">12/08/2009</div>																		
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## NOTICE OF OPPOSITION

BASIS OF OPPOSITION: TRADE MARK REGISTRATION / APPLICATION	
<b>Identification of the earlier mark</b> <input type="checkbox"/> Community trade mark <input checked="" type="checkbox"/> National trade mark <input type="checkbox"/> International registration with effect in one or more Member State(s) <b>Member State(s)</b> <div style="display: flex; flex-wrap: wrap; gap: 5px;"> <div style="border: 1px solid black; padding: 2px;">EM</div> <div style="border: 1px solid black; padding: 2px;">BG</div> <div style="border: 1px solid black; padding: 2px;">BX</div> <div style="border: 1px solid black; padding: 2px;">CZ</div> <div style="border: 1px solid black; padding: 2px;">DK</div> <div style="border: 1px solid black; padding: 2px;">DE</div> <div style="border: 1px solid black; padding: 2px;">EE</div> <div style="border: 1px solid black; padding: 2px;">GR</div> <div style="border: 1px solid black; padding: 2px;">ES</div> <div style="border: 1px solid black; padding: 2px;">FR</div> <div style="border: 1px solid black; padding: 2px;">IE</div> <div style="border: 1px solid black; padding: 2px;">IT</div> <div style="border: 1px solid black; padding: 2px;">CY</div> <div style="border: 1px solid black; padding: 2px;">LV</div> <div style="border: 1px solid black; padding: 2px;">LT</div> <div style="border: 1px solid black; padding: 2px;">HU</div> <div style="border: 1px solid black; padding: 2px;">MT</div> <div style="border: 1px solid black; padding: 2px;">AT</div> <div style="border: 1px solid black; padding: 2px;">PL</div> <div style="border: 1px solid black; padding: 2px;">PT</div> <div style="border: 1px solid black; padding: 2px;">RO</div> <div style="border: 1px solid black; padding: 2px;">SI</div> <div style="border: 1px solid black; padding: 2px;">SK</div> <div style="border: 1px solid black; padding: 2px;">FI</div> <div style="border: 1px solid black; padding: 2px;">SE</div> <div style="border: 1px solid black; padding: 2px;">GB</div> </div> <div style="margin-top: 5px;"> Filing date (DD/MM/YYYY) <span style="border: 1px solid black; padding: 2px;">28 / 02 / 1997</span>  Filing number <span style="border: 1px solid black; padding: 2px;">119913</span>  Registration date (DD/MM/YYYY) <span style="border: 1px solid black; padding: 2px;">28 / 12 / 1998</span>  Registration number <span style="border: 1px solid black; padding: 2px;">214433</span> </div> <div style="margin-top: 10px;"> <b>Type of mark</b>  <input type="checkbox"/> Word mark <span style="border: 1px solid black; display: inline-block; width: 150px; height: 15px; vertical-align: middle;"></span>  <input type="checkbox"/> Figurative mark  <input checked="" type="checkbox"/> Other (specify) <span style="border: 1px solid black; padding: 2px;">combined: Vulkan</span> </div> <div style="margin-top: 10px;"> <b>Goods and services on which the opposition is based:</b>  <input type="checkbox"/> all the goods and services covered by the registration / application  <input checked="" type="checkbox"/> part of the goods and services, namely:  <span style="border: 1px solid black; padding: 2px;">cl. 21: gloves for household</span> </div>	<div style="text-align: center; margin-bottom: 10px;"> <input checked="" type="checkbox"/> Trade mark registration    <input type="checkbox"/> Trade mark application         </div> <div style="border: 1px solid black; height: 150px; margin-bottom: 10px;"> <div style="position: absolute; top: 5px; right: 5px; font-size: 0.8em;">Representation of the mark (in colour if applicable)</div> </div> <div style="text-align: right; margin-top: 5px;"> <input checked="" type="checkbox"/> attached         </div>
<div style="display: flex; justify-content: space-between;"> <div> <b>Entitlement of opponent</b>  <input checked="" type="checkbox"/> Owner  <input type="checkbox"/> Authorised licensee             </div> <div> Copy of registration / application  Translation             </div> <div> <input checked="" type="checkbox"/> attached    <input type="checkbox"/> to follow  <input checked="" type="checkbox"/> attached             </div> </div>	
<b>Grounds for opposition</b> <input type="checkbox"/> <b>Article 8(1)(a) CTMR</b> - the CTMA IR is identical to the earlier mark and covers identical goods and/or services <input checked="" type="checkbox"/> <b>Article 8(1)(b) CTMR</b> - there exists a likelihood of confusion on the part of the public <input type="checkbox"/> <b>Article 8(5) CTMR</b> - the use without due cause of the contested mark would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark <div style="margin-top: 5px;"> <b>Explanation of grounds and other remarks:</b>  <div style="border: 1px solid black; padding: 5px; min-height: 20px;"> Allegations to follow </div> <div style="text-align: right; margin-top: 5px;"> <input type="checkbox"/> continuation sheet(s) </div> </div> <div style="margin-top: 10px;"> <b>Territory where the earlier mark has a reputation:</b>  <div style="display: flex; flex-wrap: wrap; gap: 5px;"> <div style="border: 1px solid black; padding: 2px;">EM</div> <div style="border: 1px solid black; padding: 2px;">BG</div> <div style="border: 1px solid black; padding: 2px;">BX</div> <div style="border: 1px solid black; padding: 2px;">CZ</div> <div style="border: 1px solid black; padding: 2px;">DK</div> <div style="border: 1px solid black; padding: 2px;">DE</div> <div style="border: 1px solid black; padding: 2px;">EE</div> <div style="border: 1px solid black; padding: 2px;">GR</div> <div style="border: 1px solid black; padding: 2px;">ES</div> <div style="border: 1px solid black; padding: 2px;">FR</div> <div style="border: 1px solid black; padding: 2px;">IE</div> <div style="border: 1px solid black; padding: 2px;">IT</div> <div style="border: 1px solid black; padding: 2px;">CY</div> <div style="border: 1px solid black; padding: 2px;">LV</div> <div style="border: 1px solid black; padding: 2px;">LT</div> <div style="border: 1px solid black; padding: 2px;">HU</div> <div style="border: 1px solid black; padding: 2px;">MT</div> <div style="border: 1px solid black; padding: 2px;">AT</div> <div style="border: 1px solid black; padding: 2px;">PL</div> <div style="border: 1px solid black; padding: 2px;">PT</div> <div style="border: 1px solid black; padding: 2px;">RO</div> <div style="border: 1px solid black; padding: 2px;">SI</div> <div style="border: 1px solid black; padding: 2px;">SK</div> <div style="border: 1px solid black; padding: 2px;">FI</div> <div style="border: 1px solid black; padding: 2px;">SE</div> <div style="border: 1px solid black; padding: 2px;">GB</div> </div> </div> <div style="margin-top: 5px;"> <b>Goods and services for which the trade mark has a reputation</b>  <input type="checkbox"/> all the goods and services covered by the registration / application  <input type="checkbox"/> part of the goods and services covered by the registration/application, namely:  <div style="border: 1px solid black; height: 30px; margin-top: 5px;"></div> <div style="text-align: right; margin-top: 5px;"> <input type="checkbox"/> continuation sheet(s) </div> </div> <div style="margin-top: 10px;"> <b>Evidence of reputation</b>  <input type="checkbox"/> attached    <input type="checkbox"/> to follow    Translation <input type="checkbox"/> attached         </div>	

### TM search result (IPO CZ, OHIM, WIPO)

Data obtained on 12.8.2009. Based on data (database last updated): Industrial property office 11.8.2009 20:12 OHIM 10.8.2009 00:00 WIPO 10.8.2009 00:00 WIPO - Pending 11.8.2009 00:00 WIPO 6ter 6.6.2009 00:00.  
2 z 27

Source: ÚPV-ČR  
(210) Application number: 119913  
(540) Reproduction:

The logo for 'Vulkan' is displayed in a stylized, bold, italicized font. The letters are black with a white outline, giving it a three-dimensional appearance. The 'V' is particularly prominent, with a sharp, angular design.

(111) Registration number: 214433  
(511) Classes of goods and services: 9, 10, 17, 21, 25  
(531) Vienna classification: 27.5.4, 27.5.11  
(220) Application filing date: 28.02.1997 CZ  
(320) Priority date: 28.02.1997  
(330) Priority country: CZ  
(442) Date of publication of application: 16.09.1998 CZ  
(151) Registration date: 28.12.1998 CZ  
(730) Applicant/Holder: VULKAN - Medical, a.s., U Gumovky 379, Hrádek nad Nisou, 46334, Česká republika  
(812) Country of origin: Česká republika  
Applicant/Holder (historic): VULKAN a.s., Hrádek nad Nisou, 46334, Česká republika  
Validity: 28.12.1998 - 25.07.2007  
(740) Representative: Mgr. Lukáš Diabáček, ELITFORM - Patentová a známková kancelář, Bolzanova 5, Brno, 61800, Česká republika  
Document status: Platný dokument  
Type: Combined  
TM renewed until: 28.02.2017  
(510) List of Goods and Services:  
CS (9) rukavice technické; (10) rukavice chirurgické, oční kapátka, narkotizační vaky, prezervativy a žertovné pryžové předměty, dětská šidítka a sosačky; (17) gumové reklamní balonky; (21) rukavice pro domácnost; (25) koupací čepice.  
GB (9) Technical gloves;; (10) surgical gloves, eye droppers, narcotizing sacks, condoms and comical rubber objects, children dummies and fogies;; (17) rubber advertising balloons;; (21) gloves for household;; (25) bathing caps;; (35) advertising.

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