



W211

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

Trade Marks Department

Alicante, 10/02/2010

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*

International Registration No:	0989103
Date of notification to OHIM:	22-01-2009
Trade mark:	VOLCANO
Applicant/Holder:	Ritzio Entertainment Group Limited Diagorou 4, Kermia Building, Office 601 Nicosia
<i>Opposition number:</i>	1589822

Correction: Please note that this fax replaces the one sent on 05/02/2010 for the above mentioned opposition 1589822. The Office apologizes for any inconveniences caused.

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)b CTMR**).

II. Name and address of the opposing party:

HID Global Switzerland S.A.
Zone Industrielle
CH-1614 Granges (Veveyse)
SWITZERLAND

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

- type of mark : **Community Trade Mark**
- filing date, registration date and, if applicable, priority date:
Filing Date: 08/05/2006
Registration Date: 22/08/2007
- filing number and, if different, registration number:

*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

Filing Number: 005098331

Registration Number: 005098331

- reproduction of the mark: (see annex)
- list of goods and services on which the opposition is based: (see annex)

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

Class 9

Apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; data processing equipment and computers; ticket dispensers; juke boxes (musical), automatic distribution machines, electric monitoring apparatus, sound recording apparatus, electric apparatus for communication, video cassettes, video screens, floppy disks, phonograph records, optical disks, compact disks (read-only memory), compact discs (audio-video), decorative magnets, mechanisms for coin-operated apparatus, sound recording carriers, magnetic data media, optical data media; computer operation programs, recorded; computer game programs, computer programs (downloadable software), electronic publications (downloadable), integrated circuit cards (smart cards), totalizers, apparatus for games adapted for use with television receivers only, amusement apparatus adapted for use with television receivers only, computer peripheral devices, anti-theft warning apparatus, chips (integrated circuits).

Class 38

Telecommunications, including electronic bulletin board services (telecommunications services), providing user access to a global computer network (service providers), providing telecommunications connections to a global computer network, communications by fiber (fibre) optic networks.

Class 16

Printed matter, almanacs, posters, tickets, printed forms, pamphlets, booklets, newsletters, newspapers, engravings, printed publications, calendars, tear-off calendars; non-electric credit cards imprinters; catalogues, books, graphic prints, magazines (periodicals), prospectuses, printed timetables, graphic reproductions.

Class 42

Design and development of computer hardware and software; computer systems analysis, installation of computer software, updating of computer software, maintenance of computer software, computer system design, computer rental, rental of computer software, hosting computer sites (web sites), creating and maintaining web sites for others.

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.

Napsugar NOVAK
Examiner

Annex: The Notice Opposition received on 26/10/2009 (8 pages)

26. OKT. 2009 19:03

COHAUSZ & FLORACK

NR. 544 S. 1



OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET (OHIM)

NOTICE OF OPPOSITION

Number of pages (including this one) <input type="text"/>		Opponent's/representative's reference number (not more than 20 characters)		Mod/001
Opponent		ID number <input type="text" value="34789"/> <input type="checkbox"/> multiple opponents		
Name of legal entity or first name and surname		HID Global Switzerland S.A.		
Tel, fax, e-mail				
Address				
Street and number		Zone Industrielle		
City and postal code		1614 Granges (Veveyse)		
Country		Switzerland		
Postal address (if different)				
Nationality				
Representative		ID number <input type="text" value="10639"/> <input type="checkbox"/> multiple representatives		
Name		COHAUSZ & FLORACK		
Tel, fax, e-mail		0049-211904900 0049-2119049049 mail@cohausz-florack.de		
Address				
Street and number		Bleichstrasse 14		
City and postal code		40211 Düsseldorf		
Country		Germany		
Postal address (if different)				
Type of representative <input type="checkbox"/> legal practitioner <input type="checkbox"/> professional representative <input checked="" type="checkbox"/> association of representatives <input type="checkbox"/> employee				
Challenged application		CTMA / IR No <input type="text" value="989103"/>		Date of publication (DD/MM/YYYY) <input type="text" value="26 / 01 / 2009"/>
Name of CTM applicant or IR holder		<input type="text" value="Ritzio Entertainment Group Limited"/>		Language of the opposition <input type="checkbox"/> ES <input type="checkbox"/> DE <input checked="" type="checkbox"/> EN <input type="checkbox"/> FR <input type="checkbox"/> IT
Extent of the opposition				
<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:				
<input type="text" value="all goods and services in Classes 9, 16, 38 and 42"/>				
<input checked="" type="checkbox"/> continuation sheet(s)				
Payment of fee		Total <input type="text" value="€ 350"/>		Signature
Current account with OHIM		Name <input type="text" value="Rebekka Schiffer Rechtsanwältin"/>		
<input checked="" type="checkbox"/> Account No <input type="text" value="000196"/>		Signature		
<input type="checkbox"/> Do not use my current account with OHIM				
Transfer to account of OHIM				
<input type="checkbox"/> Banco Bilbao Vizcaya Argentaria				
<input type="checkbox"/> La Caixa				
Date of transfer (DD/MM/YYYY) <input type="text" value=" / /"/>				

page number
1 of 8

#1100272X

Site language
Select site language: **English (en)**

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CTM-ONLINE - Detailed trade mark information

Trade mark name : VOLCANO
Trade mark No : 000989103
Trade mark basis: IR designating the EC
(Madrid Express database)
Number of results: 1 of 1

Trade mark
Date of international registration: 11/08/2008
Date of international registration: 11/08/2008
Date of receipt at OHIM: 22/01/2009
Expiry Date: 11/08/2018
Nice Classification: 9, 16, 21, 25, 28, 35, 38, 39, 41, 42, 43, 45 (Nice classification)
Trade mark: Individual
Type of mark: Figurative
Status of trade mark: Opposition Pending (Glossary)
WIPO language: English
Second language: French

Graphic representation

No image available

List of goods and services

Nice Classification:
List of goods and services

9
Apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; data processing equipment and computers; ticket dispensers; juke boxes (musical); automatic distribution machines; electric monitoring apparatus; sound recording apparatus; electric apparatus for communication, video cassettes, video screens, floppy disks, phonograph records, optical disks, compact disks (read-only memory), compact discs (audio-video), decorative magnets, mechanisms for coin-operated apparatus, sound recording carriers, magnetic data media, optical data media; computer operation programs, recorded; computer game programs, computer programs (downloadable software), electronic publications (downloadable), integrated circuit cards (smart cards), localizers, apparatus for games adapted for use with television receivers only; amusement apparatus adapted for use with television receivers only; computer peripheral devices, anti-theft warning apparatus, chips (integrated circuits).

Nice Classification:
List of goods and services

16
Printed matter, almanacs, posters, tickets, printed forms, pamphlets, booklets, newsletters, newspapers, engravings, printed publications, calendars, tear-off calendars; non-electric credit cards imprints; catalogues, books, graphic prints, magazines (periodicals), prospectuses, printed timetables, graphic reproductions.

Nice Classification:
List of goods and services

21
Stirrers, pepper pots, not of precious metal, gloves for household purposes, trays for domestic purposes, not of precious metal, trays (kitchen utensils), candleabra (candlesticks), not of precious metal, trivets (table utensils), coasters, not of paper and other than table linen, menu card holders, knife rests for the table, flat-iron stands, tableware (other than knives, forks and spoons); porcelain ware, pottery, crockery, crystal (glassware); cosmetic utensils, toilet utensils, spice sets, appliances for removing make-up, non-electric, food cooling devices containing heat exchange fluids.

Nice Classification: List of goods and services	<p>for household purposes, bottle openers, glass caps, soap dispensers, combs, shoe horns, salad bowls, not of precious metal, sugar bowls, not of precious metal, services (tableware), not of precious metal, coffee services, tea services, not of precious metal, tea strainers, not of precious metal, siphons for carbonated water, blenders, non-electric, for household purposes, fruit presses, non-electric, for household purposes, salt cellars, not of precious metal, drinking vessels, refrigerating bottles, cups of paper or plastic, glass (receptacles), drinking glasses, statues and figurines (statuettes) of porcelain, terra-cotta or glass; soup bowls, not of precious metal, table plates, not of precious metal, graters (household utensils), insulating flasks, urns, not of precious metal, aerosol dispensers, not for medical purposes, wax-polishing appliances for shoes, non-electric, sprinkling devices, utensils for household purposes, not of precious metal, kitchen utensils, not of precious metal, cooking utensils, non-electric, strainers for household purposes, coffee filters, non-electric, flasks, not of precious metal, bottle gourds, molds (kitchen utensils), bread bins, teapots, not of precious metal, kettles, non-electric, cups, not of precious metal, mixers, manual (cocktail shakers), corkscrews, dishwashing brushes, brushes for cleaning tanks and containers, toothbrushes, brushes for footwear, boxes of metal, for dispensing paper towels, dust bins.</p>
Nice Classification: List of goods and services	<p>25 Clothing, footwear, headgear: bandanas (neckerchiefs), underclothing, overalls, half-boots, trousers, collars (clothing), shirt yokes, neckties, vests, singlets, hosiery, pockets for clothing, cap peaks, combinations (clothing), suits, swimtrunks, jackets (clothing), T-shirts, ear muffs (clothing), socks, outerclothing, ready-made clothing, uniforms, top coats, scarfs, robes, waterproof clothing, belts (clothing), pullovers, shirts, sweaters, aprons (clothing), sashes for wear, pelisses.</p>
Nice Classification: List of goods and services	<p>28 Games and playthings; gymnastic and sporting articles not included in other classes, including amusement machines, automatic and coin-operated, cups for dice, dice, playing cards, billiard cues, chalk for billiard cues, billiard table cushions, billiard cue tips, accessories for games, billiard markers, billiard tables, coin-operated billiard tables, tables for table tennis, apparatus for electronic games other than those adapted for use with television receivers only, counters (discs) for games, small balls for games, billiard balls.</p>
Nice Classification: List of goods and services	<p>35 Office functions, data search in computer files for others, office machines and equipment rental, rental of vending machines, compilation of information into computer databases, systemization of information into computer databases, public relations.</p>
Nice Classification: List of goods and services	<p>38 Telecommunications, including electronic bulletin board services (telecommunications services), providing user access to a global computer network (service providers), providing telecommunications connections to a global computer network, communications by fiber (fibre) optic networks.</p>
Nice Classification: List of goods and services	<p>39 Travel arrangement, including booking of seats for travel, travel reservation, transport reservation, delivery of goods, arranging of cruises, transport of travellers, car transport, car rental, escorting of travellers, wrapping of goods, car parking, chauffeur services, courier services (messages or merchandise), tourist offices (except for hotel reservation), storage of goods, sightseeing (tourism).</p>
Nice Classification: List of goods and services	<p>41 Education; providing of training; entertainment; sporting and cultural activities; including rental of tennis courts, billiard halls, booking of seats for shows, videotaping, discotheque services, gaming, publication of books, recreation information, entertainment information, club services (entertainment or education), night clubs, game services provided on-line (from a computer network), publication services (demonstration), organization of exhibitions for cultural or educational purposes, providing recreation facilities, arranging and conducting workshops (training), organization of competitions (education or entertainment), operating lotteries, holiday camp services (entertainment), organization of sports competitions, amusement parks, providing sport facilities, providing amusement arcade services, providing cinema facilities, timing of sport events, videotape film production, film production, rental of</p>

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<p>sound recordings, rental of audio equipment, rental of video cassette recorders, rental of slot machines, rental of cine-films, rental of stadium facilities, electronic desktop publishing, publication of electronic books and journals on-line, publication of texts (other than publicity texts), entertainer services, party planning (entertainment), providing casino facilities (gambling), translation, photography, production of shows, music-halls.</p>	
Nice Classification: List of goods and services	42 Design and development of computer hardware and software; computer systems analysis, installation of computer software, updating of computer software, maintenance of computer software, computer system design, computer rental, rental of computer software, hosting computer sites (web sites), creating and maintaining web sites for others.
Nice Classification: List of goods and services	43 Services for providing food and drink; temporary accommodation, agencies for reservations (hotels, boarding houses), rental of meeting rooms, tourist homes, hotel reservations, temporary accommodation reservations, hotels, snack-bars, cafes, cafeterias, restaurants, holiday camp services (lodging), bar services, providing campground facilities, food and drink catering.
Nice Classification: List of goods and services	45 Personal and social services rendered by others to meet the needs of individuals, marriage agencies, detective agencies, night guards, guards, dating services, personal body guarding.
Owner	
Name:	Ritzio Entertainment Group Limited
Address:	Diagorou 4, Kermia Building, Office 601 Nicosia
Country:	CYPRUS
Representative before OHIM	
No entry for application number: 0989103.	
Seniority	
No entry for application number: 0989103.	
Priority	
No entry for application number: 0989103.	
Publication	
Bulletin no.:	E 2009/003
Date of publication:	26/01/2009
Part:	M.1
Opposition	
Opposition No.:	001566333
Reception date:	21/10/2009
Opponent name:	REGION D'AUVERGNE (Collectivité Territoriale) -
Opponent ID No.:	Hôtel de la Région 96300
Appeals	
No entry for application number: 0989103.	
Renewals	
No entry for application number: 0989103.	

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- Compatibility

Version: 9.2.0

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NOTICE OF OPPOSITION

BASIS OF OPPOSITION: TRADE MARK REGISTRATION / APPLICATION	
Identification of the earlier mark <input checked="" type="checkbox"/> Community trade mark <input type="checkbox"/> National trade mark <input type="checkbox"/> Trade mark registration with effect in one or more Member State(s) Member State(s) <div style="display: flex; flex-wrap: wrap; gap: 2px;"> <div>EM</div><div>BG</div><div>BX</div><div>CZ</div><div>DK</div><div>DE</div><div>EE</div><div>GR</div><div>ES</div><div>FR</div><div>IE</div><div>IT</div><div>CY</div><div>LV</div><div>LT</div><div>HU</div><div>MT</div><div>AT</div><div>PL</div><div>PT</div><div>RO</div><div>SI</div><div>SK</div><div>FI</div><div>SE</div><div>GB</div> </div> Filing date (DD/MM/YYYY) 08 / 05 / 2006 Filing number 005098331 Registration date (DD/MM/YYYY) 22 / 08 / 2007 Registration number 005098331 Type of mark <input checked="" type="checkbox"/> Word mark VOLCANO TAG <input type="checkbox"/> Figurative mark <input type="checkbox"/> Other (specify) 	<input type="checkbox"/> Trade mark application Representation of the mark (in colour if applicable) <div style="border: 1px solid black; height: 100px; width: 100%;"></div> <div style="text-align: right; padding-top: 5px;"><input type="checkbox"/> attached</div>
Goods and services on which the opposition is based: <input checked="" type="checkbox"/> all the goods and services covered by the registration / application <input type="checkbox"/> part of the goods and services, namely: <div style="border: 1px solid black; height: 20px; width: 100%;"></div> <div style="text-align: right; padding-top: 5px;"><input type="checkbox"/> continuation sheet(s)</div>	
Entitlement of opponent <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorised licensee <div style="display: flex; justify-content: space-between; align-items: center;"> Copy of registration / application <div style="display: flex; align-items: center;"> <input checked="" type="checkbox"/> attached <input type="checkbox"/> to follow <input type="checkbox"/> attached </div> </div>	
Grounds for opposition <input type="checkbox"/> Article 8(1)(a) CTMR - the CTMA IR is identical to the earlier mark and covers identical goods and/or services <input checked="" type="checkbox"/> Article 8(1)(b) CTMR - there exists a likelihood of confusion on the part of the public <input type="checkbox"/> Article 8(5) CTMR - 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 Explanation of grounds and other remarks: <div style="border: 1px solid black; padding: 5px; min-height: 40px;"> There is likelihood of confusion due to the similarity of the marks and the identity / similarity of the goods / services in comparison. </div> <div style="text-align: right; padding-top: 5px;"><input type="checkbox"/> continuation sheet(s)</div>	
Territory where the earlier mark has a reputation: <div style="display: flex; flex-wrap: wrap; gap: 2px;"> <div>EM</div><div>BG</div><div>BX</div><div>CZ</div><div>DK</div><div>DE</div><div>EE</div><div>GR</div><div>ES</div><div>FR</div><div>IE</div><div>IT</div><div>CY</div><div>LV</div><div>LT</div><div>HU</div><div>MT</div><div>AT</div><div>PL</div><div>PT</div><div>RO</div><div>SI</div><div>SK</div><div>FI</div><div>SE</div><div>GB</div> </div> Goods and services for which the trade mark has a reputation <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: 20px; width: 100%;"></div> <div style="text-align: right; padding-top: 5px;"><input type="checkbox"/> continuation sheet(s)</div>	
Evidence of reputation <div style="display: flex; justify-content: space-between; align-items: center;"> <input type="checkbox"/> attached <input type="checkbox"/> to follow Translation <input type="checkbox"/> attached </div>	

Attachment

**Extent of the Opposition to the European Designation of International Registration 989103
VOLCANO of Ritzio Entertainment Group Limited based on Community Trademark Registration
VOLCANO TAG of HID Global Switzerland S.A.**

Class 9:

Apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; data processing equipment and computers; ticket dispensers; juke boxes (musical), automatic distribution machines, electric monitoring apparatus, sound recording apparatus, electric apparatus for communication, video cassettes, video screens, floppy disks, phonograph records, optical disks, compact disks (read-only memory), compact discs (audio-video), decorative magnets, mechanisms for coin-operated apparatus, sound recording carriers, magnetic data media, optical data media; computer operation programs, recorded; computer game programs, computer programs (downloadable software), electronic publications (downloadable), integrated circuit cards (smart cards), totalizers, apparatus for games adapted for use with television receivers only, amusement apparatus adapted for use with television receivers only, computer peripheral devices, anti-theft warning apparatus, chips (integrated circuits).

Class 16:

Printed matter, almanacs, posters, tickets, printed forms, pamphlets, booklets, newsletters, newspapers, engravings, printed publications, calendars, tear-off calendars; non-electric credit cards imprints; catalogues, books, graphic prints, magazines (periodicals), prospectuses, printed timetables, graphic reproductions.

Class 38:

Telecommunications, including electronic bulletin board services (telecommunications services), providing user access to a global computer network (service providers), providing telecommunications connections to a global computer network, communications by fiber (fibre) optic networks.

Class 42:

Design and development of computer hardware and software; computer systems analysis, installation of computer software, updating of computer software, maintenance of computer software, computer system design, computer rental, rental of computer software, hosting computer sites (web sites), creating and maintaining web sites for others.

http://oami.europa.eu/CTMOnline/RequestManager/en_ResultsDetailed_NoReg

mail@cohausz-florack.de	
Seniority	
No entry for application number: 005098331.	
Exhibition priority	
No entry for application number: 005098331.	
Priority	
No entry for application number: 005098331.	
Publication	
Bulletin no.:	E 2007/008
Date of publication:	26/02/2007
Part:	A.1
Bulletin no.:	E 2007/046
Date of publication:	27/08/2007
Part:	B.1
Opposition	
No entry for application number: 005098331.	
Cancellation	
No entry for application number: 005098331.	
Appeals	
No entry for application number: 005098331.	
Recordals	
Title:	Owners
Sub-title:	Change of name and adress of owner
IS No:	003594163
Bulletin no.:	E 2009/003
Date of publication:	09/03/2009
Part:	C.1.3
Renewals	
No entry for application number: 005098331.	

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Version: 9.2.0

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