



**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:

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**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:

**823013**

III. Other information concerning the international registration which is the subject of the provisional refusal: verbal elements of the mark: **ALASKA**

IV. The grounds for this provisional refusal are the following:

1. The trademark ALASKA cannot be protected because it is not distinctive and it designates the geographical origin of the goods and services.
2. The trademark cannot be protected for some goods because it is identical to the following trademark, which is registered for identical goods (copy of the registration enclosed):

**Alaska** registered 27.10.1998 (filing date 02.04.1997) under the number 000505503

The name and the address of the owner of the mark are:

**SCHWARZBRÄU GmbH  
Marktplatz 6  
86441 Zumarshausen  
GERMANY**

3. The trademark is identical to the following trademark, which is registered for similar kind of goods:

**Alaska** registered 27.10.1998 (filing date 02.04.1997) under the number 000505503

The written consent from the owner of the above-mentioned CTM is required for protection of the international registration in Estonia for some goods.

The items IV.2 and 3 are effective and the written consent from the owner of the above-mentioned CTM for the protection of the international registration in Estonia is required only if the ground mentioned in item IV.1 will be excluded in the course of the possible appeal proceedings.

V. Provision of the Estonian Trademark Act applicable on the subject (enclosed):  
 Section 9 subsections 1(2), (3).  
 Section 10 subsections 1(1), (2) and subsection 2.  
 Section 11 subsections 1(6).

VI. The ground referred to in item IV.1 affects **all the goods and services**.  
 The ground referred to in item IV.2 affects the following goods in **class 32**: *mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages*.  
 The ground referred to in item IV.3 affects the following goods in **class 29**: *preserved, dried and cooked fruits*.

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 **03/01/2011** (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: 01/09/2010 (dd/mm/yyyy).

IX. Signature of the Office:



Meriliis Varilepp

Senior Examiner of the Second International Trademark Examination Division

Number of continuation sheets: 2

## **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;

### **§ 10. Relative circumstances which preclude legal protection**

- (1) Legal protection shall not be granted to the following trade marks:
  - 1) trade marks which are identical with an earlier trade mark which has been granted legal protection with regard to identical goods or services designated by the trade mark;
  - 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.

### **§ 11. Earlier trade mark and other earlier rights**

- (1) "Earlier trade mark" means the following:
- 6) a Community trade mark registered on the basis of the Community trade mark Regulation if the date of filing of the application, priority date or the seniority date granted on the basis of Estonian registration is earlier.

### **§ 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 the Industrial Property Board of Appeal, except the filing of an application.

### **§ 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.

### **§ 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.

### **§ 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.

### **§ 69. Effect of international registration**

- (1) Legal protection arising from an international registration valid in Estonia is equal to legal protection arising from a national registration and the rights and obligations arising from an internationally registered trade mark are equal to those arising from a nationally registered trade mark.

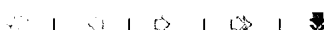
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## CTM-ONLINE - Detailed trade mark information



**Trade mark name :** Alaska  
**Trade mark No :** 000505503  
**Trade mark basis:** CTM  
**Date of receipt :** 02/04/1997  
**Number of results:** 1 of 1

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### Trade mark

**Filing date:** 02/04/1997  
**Date of registration:** 27/10/1998  
**Expiry Date:** 02/04/2017  
**Nice Classification:** 32 (→ [Nice classification](#))  
**Trade mark:** Individual  
**Type of mark:** Word  
**Acquired distinctiveness:** No  
**Applicant's reference:** LS/gm/schwarzbräu1  
**Status of trade mark:** Registered (→ [Glossary](#))  
 Publication of registration  
 (→ [Publication B1 or Publication B2](#))  
 (→ [History of statuses](#))  
**Filing language:** German  
**Second language:** English

### Graphic representation

No entry for application number: 000505503.

### List of goods and services

**Nice Classification:** 32  
**List of goods and services** Mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.

### Description

**Description of the mark:** -

### Owner

**Name:** SCHWARZBRÄU GmbH  
**ID No:** 10175  
**Natural or legal person:** Legal entity  
**Address:** Marktplatz 6  
**Post code:** 86441  
**Town:** Zusmarshausen  
**Country:** GERMANY  
**Correspondence address:** SCHWARZBRÄU GmbH Postfach 150 D-86439 Zusmarshausen ALEMANIA  
**Telephone:** 00 49-8291 880  
**Fax:** 00 49-82918844

### Representative

**Name:** GLEISS LUTZ  
**ID No:** 10889  
**Type:** 4 - Association  
**Address:** Maybachstr. 6  
**Post code:** 70469  
**Town:** Stuttgart  
**Country:** GERMANY  
**Correspondence address:** GLEISS LUTZ Maybachstr. 6 D-70469 Stuttgart ALEMANIA  
**Telephone:** 00 49-71189970  
**Fax:** 00 49-711855096  
**E-mail:** [stefan.voelker@gleisslutz.com](mailto:stefan.voelker@gleisslutz.com)