

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

PROVISIONAL REFUSAL OF PROTECTION

notified to the World Intellectual Property Organisation (WIPO)
according to Article 5 of the Madrid Agreement and Madrid Protocol

I. Office making the notification of refusal PATENT OFFICE OF THE REPUBLIC OF LATVIA 7, Citadeles iela, PO Box 824 LV 1010, Rīga LATVIA		phone 371 67099604 Fax 371 67099650
II. Number of the international registration which is the subject of refusal 1 033 667		
III. Name of the holder of the international registration concerning the subject of refusal Calidris 28 AG (SA) 30, Esplanade de la Moselle L-6637 Luxembourg (Luxembourg)		
IV. The grounds of refusal: The mark '28BLACK' lacks any distinctive character with respect to the applied goods in class 25, consists of indications which may serve in trade, to designate the size and colour of clothing.		
V. Reference to the corresponding essential provisions of the law (see materials attached) ARTICLE 6.(1)2); 6.(1)3.		
VI. ☐ Refusal for all goods and services ☒ Refusal for the following goods and services: all goods in class 25		
VII. Possibilities to review or appeal The holder of the mark has the right, within 3 months from the date of reception of present decision, to submit his objections to the Patent Office of the Republic of Latvia through a professional local patent attorney. After expiration of the said period the Patent Office shall take a final decision. If no answer will be received the Patent Office will make negative decision, which will not be opened to review.		
VIII. Date on which the present decision was pronounced		26.11.2010
IX. Signature and seal of the office making the notification of refusal		L.Rinka 

Extracts of the Law of the Republic of Latvia on Trademarks and Indications of geographical Origin

Section 6. Absolute Grounds for Refusal and Invalidation of a Trademark Registration

(1) The following signs shall not be registered as trademarks (if they have been registered, these registrations may be declared invalid pursuant to the provisions of this Law):

- 1) those which cannot constitute a trademark, that is, which do not comply with the provisions of Section 3 of this Law;
- 2) those which lack any distinctive character with respect to the applied goods or services;
- 3) those which consist solely of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, or the time of production of the goods or of providing the services, or other characteristics of the goods or services;
- 4) those which consist solely of signs or indications which have become customary in the current language or in fair and established practices of the trade to designate the goods or services applied for (general designations);
- 5) those which consist solely of a shape which is directly determined by the kind of goods (which results directly from the nature of the goods themselves), or which is necessary to obtain a particular technical result, or which gives substantial value to the goods;
- 6) those which are contrary to public policy or to socially accepted principles of morality;
- 7) those which are of such a nature as to mislead the consumers, for example, as to the nature, quality or geographical origin of the goods or services;
- 8) those which contain signs, the registration of which would be refused or invalidated pursuant to Section 6-ter of the Paris Convention, including coats of arms and flags of the member countries of the Paris Union, their official marks indicating control, quality, and warranty, and hallmarks, as well as emblems, flags, names of international organisations and their abbreviations, without authorization by the competent authorities;
- 9) those which, without authorization by the competent authorities given pursuant to the procedures set out in the statutory enactments of Latvia, contain the official heraldry approved by the State, national decorations, official Service insignia, as well as official marks indicating control, quality and warranty, official hallmarks, and signs indicating the safety of utilising goods which are used with respect to identical or similar goods or services in Latvia, or any other marks of high symbolic value, as well as religious symbols;
- 10) with respect to wines - those which contain or consist of an indication of geographical origin identifying wines of particular origin, or with respect to spirits which contain or consist of an indication of geographical origin identifying spirits of particular origin, if such is not the genuine place of origin of the wines or spirits for which the trademark registration has been applied for;
- 11) those which are provided for designation of agricultural products and foodstuffs and include an indication of geographical origin protected in relation to the same agricultural products and foodstuffs or consists of such protected indication of geographical origin, if the products the trademark registration is applied for do not have the relevant origin, or the use of the sign applied for registration with respect to these products is at variance with the statutory enactments regulating the protection of the geographical indications and original names of agricultural products and foodstuffs.

(2) A trademark also shall not be registered or, if registered, may be liable to be declared invalid pursuant to the provisions of this Law if the application for registration of the trademark was clearly made in bad faith by the applicant.

(3) A trademark registration may not be refused on the basis of the provisions of Paragraph 1, Sub-paragraphs 2, 3 or 4 of this Section, and shall not be declared invalid on the basis of the same provisions if, as a result of the use of the mark, it has acquired a distinctive character in the perception of the relevant consumers in Latvia with respect to the goods and services for which registration has been applied for.

Section 18. Opposition to a Trademark Registration

(1) Within three months from the date of the publication of a trademark, interested persons may, upon payment of the applicable fee, submit an opposition to the registration of a trademark. The opposition shall be filed with the Board of Appeal in writing, substantiated by appropriate arguments and references to the provisions of law. After the expiration of the said term, the opponent does not have the right to change (expand) the initial legal basis of the opposition, but may, up until the decision of the Board of Appeal is adopted, submit additional documents and materials, that confirm (specify) the facts on which the opposition is based.

Section 39. Validity of an International Registration in Latvia

(5) Opposition to the entry into effect of an international registration of a trademark in Latvia, as provided for in Section 18 of this Law, shall be filed within four months from the date of publication of a notice of trademark registration with respect to Latvia (territorial extension to Latvia) in the official gazette of international registration of trademarks.