



**ESTONIAN PATENT OFFICE
TRADEMARK DEPARTMENT**

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

NOTIFICATION OF PROVISIONAL REFUSAL BASED ON AN OPPOSITION

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:
999045

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

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

Opposition made on 01.02.2011 by BAYER AG on the grounds that the company has earlier registrations No.16775 and 16776 ASPIRIN (national trademarks) which are well-known and registered for identical and similar kind of goods as the international registration No. 999045 and the marks are similar to the extent that there exists a likelihood of confusion on the part of the public (copies of the registrations and copy of the notification about opposition enclosed).
ASPIRIN is also a proprietary medicinal product registered in Estonia.

The name and the address of the opponent are:
**BAYER AG
51368 Leverkusen
DE**

V. Provision of the Estonian Trademark Act applicable on the subject (enclosed):
Section 10 subsection 1 (2); (5)
Section 41 subsection 2

VI. The ground referred to in item IV. affects all the goods.

VII. The holder of the registration has right to participate in the procedure at the Board of Appeal of Intellectual Property of Estonia.

The request has to be filed through the patent agent of the Republic of Estonia (section 13 subsection 2 of the Estonian Trademark Act). List of patent agents is available at
<http://www.epa.ee/>

The request for participation in the procedure must be received by the Board of Appeal no later than within 3 months from the date of the acceptance of the opposition for processing.

Name and address of the Board of Appeal:
Board of Appeal of Intellectual Property
Ministry of Economic Affairs and Communications
Harju str. 11
15072 Tallinn
ESTONIA

The time limit expires 09/05/2011 (dd/mm/yyyy). The extension of the time limit is not possible.

Please note that the matter will be examined by the Board of Appeal even if the holder of the registration does not request participation in the procedure at the Board of Appeal.

VIII. Date on which the refusal was pronounced: 16/02/2011 (dd/mm/yyyy).

IX. Signature of the Office:



Janika Kruus

Head of the Second International Trademark Examination Division

Number of continuation sheets: 4

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;

5) which are identical or confusingly similar to the name of a proprietary medicinal product registered in Estonia if the goods which the trade mark is used to or is going to be used to designate belong to the field of medicine;

§ 11. Earlier trade mark and other earlier rights

(1) "Earlier trade mark" means the following:

2) a registered trade mark if the filing date of the application or the date of priority 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.

§ 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.

(3) In case an appeal or revocation application is allowed in whole or in part, the Board of Appeal shall annul the decision of the Patent Office and require the Patent Office to continue proceedings taking into account the facts set out in the decision of the Board of Appeal.

§ 70. Processing of international registration

(7) Decisions on international registrations made by the Patent Office and the rights of applicants shall be contested pursuant to the provisions of this Act, taking account of the specifications arising from the Madrid Protocol and its Common Regulations. The Bureau shall be notified of a contestation and the decision made in the matter.

MAJANDUS- JA KOMMUNIKATSIOONI-
MINISTEERIUM
TÖÖSTUSOMANDI APELLATSIOONIKOMISJON
Harju 11, Tallinn
Tel: 6256342
Faks: 6313660

VAIDLUSTUSAVALDUS

Täidab tööstusomandi apellatsioonikomisjon:

Kaebuse nr:
Saabumise kuupäev:

IOAK

01.02.2011

Nr. 1307

Täidab kaebuse esitaja:

☐ kodumaine kaebuse esitaja

☒ välismaine kaebuse esitaja

1. Kaebuse esitaja ees- ja perekonnanimi, töö- või tegevusala või juriidilise isiku täisnimetus:

BAYER AG

2. Kaebuse esitaja aadress, telefon, faks:

51368 Leverkusen, DE

3. 1. Kaebuse objekt:

Patendiameti otsus anda Eestis õiguskaitse ZENTIVA, A.S. rahvusvahelisele kaubamärgile nr. 0999045 „Anopyrin“ (R200900673).

3. 2. Kaebuse sisu koos viidetega tõenditele:

vt. lisa

3. 3. Kaebuse esitaja taotlus:

Tühistada Patendiameti otsus rahvusvahelise kaubamärgi nr. 0999045 „Anopyrin“ registreerimise kohta ja kohustada Patendiametit jätkama menetlust apellatsioonikomisjoni otsuses toodud asjaolusid arvestades.

4. Patendivolinik (ees- ja perekonnanimi, büroo aadress, telefon, faks):

Raivo Koitel, reg. nr. 042, Patendi- & Kaubamärgibüroo KOITEL OÜ, Tartu mnt 65, 10115, Tallinn, tel. 6 033 260, faks 6 033 261.

5. Lisad:

☒ kaebuse ära kiri

☒ volikiri, kui kaebuse esitab patendivolinik

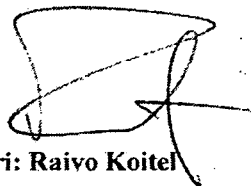
☒ tõendid lk

☒ dokument lõivu tasumise kohta, m/k 76, 01/02/2011

Koht: Tallinn

Kuupäev: 01/02/2011

Allkiri: Raivo Koitel





9.02.2011

Estonian Patent Office

(210) Application No: 9305162

(220) Application Date: 03.06.1993

(111) Registration No: 16776

(151) Registration Date: 12.09.1995

(300) Priority:

(551) Ordinary

(566) Verbal

(732) Owner:

BAYER AG

D-5090 Leverkusen, Bayerwerk, DE

(526) Disclaimer:

(740) Agent:

Heinu Koitel

Patendi- & Kaubamärgibüroo Koitel OÜ

Tartu mnt 65

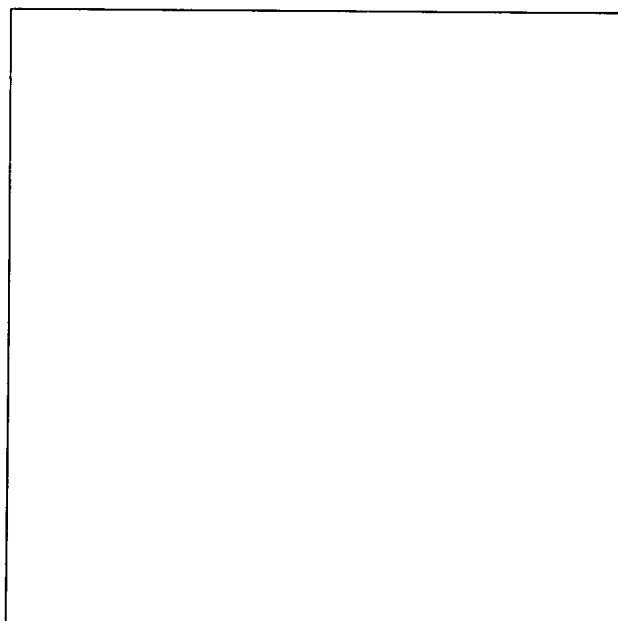
10115 Tallinn

(591) Colour Claim:

Legal Status: Lõplikult registreeritud (5a möödas)

(511) Classes and List of Goods and Services: (540) ASPIRIN

5 farmaatsiapreparaadid.





9.02.2011

Estonian Patent Office

(210) Application No: 9305161

(220) Application Date: 03.06.1993

(111) Registration No: 16775

(151) Registration Date: 12.09.1995

(300) Priority:

(551) Ordinary

(566) Combined

(732) Owner:

BAYER AG

D-5090 Leverkusen, Bayerwerk, DE

(526) Disclaimer:

(740) Agent:

Heinu Koitel

Patendi- & Kaubamärgibüroo Koitel OÜ

Tartu mnt 65

10115 Tallinn

(591) Colour Claim:

must, roheline, valge.

Legal Status: Lõplikult registreeritud kantud (5a möödas)

(511) Classes and List of Goods and Services:

5 farmaatsiapreparaadid.

