



**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:

Page 1(2)

**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:

1031791

III. Other information concerning the international registration which is the subject of the provisional refusal:
verbal elements of the mark: **4 MOVE**

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

Opposition made on 04.07.2011 by SUMOL + COMPAL MARCAS, S.A. on the grounds that the company has the earlier registration no.004194437 MOOVE (CTM) (copy of the registration and copy of the notification about opposition enclosed).

The abovementioned trademark is registered for identical and similar kind of goods as the international registration no. 1031791 and the mark are similar to the extent that there exists a likelihood of confusion on the part of the public.

The name and the address of the opponent are:

SUMOL + COMPAL MARCAS, S.A.
Estrada da Portela, N°9 Portela de Carnaxide
2790-124 Oeiras Carnaxide
PORTUGAL

V. Provision of the Estonian Trademark Act applicable on the subject (enclosed):
Section 10 subsection 1 (2).
Section 41 subsection 2 and 3.

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 and the power of attorney 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 17/10/2011 (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: 20/07/2011 (dd/mm/yyyy).

IX. Signature of the Office:



Meriliis Varilepp
Senior Examiner of the Second International Trademark Examination Division

Number of continuation sheets: 3

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;

§ 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.

§ 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.

Representative

Name: J. PEREIRA DA CRUZ, S.A.
ID No: 15273
Type: 4 - Association
Address: Rua Victor Cordon, 14
Post code: 1249-103
Town: Lisboa
Country: PORTUGAL
Correspondence address: J. PEREIRA DA CRUZ, S.A. Rua Victor Cordon, 14 P-1249-103 Lisboa PORTUGAL
Telephone: 00 351-213475020
Fax: 00 351-213421885
E-mail: info@jpcruz.pt

Seniority

No entry for application number: 004194437.

Exhibition priority

No entry for application number: 004194437

Priority

No entry for application number: 004194437.

International Registration Transformation

No entry for application number: 004194437.

Publication

Bulletin no.: 2005/037
Date of publication: 12/09/2005
Part: A.1

Bulletin no.: 2006/021
Date of publication: 22/05/2006
Part: B.1

Bulletin no.: 2009/002
Date of publication: 19/01/2009
Part: C.1.1

Bulletin no.: 2009/002
Date of publication: 19/01/2009
Part: C.1.1

Bulletin no.: 2009/002
Date of publication: 19/01/2009
Part: C.1.3

Opposition

No entry for application number: 004194437.

Cancellation

No entry for application number: 004194437

Appeals

No entry for application number: 004194437.

Recordals

Title: Owners
Sub-title: Total Transfer
ID No: 003611871
Bulletin no.: 2009/002
Date of publication: 19/01/2009
Part: C.1.1

Title: Owners
Sub-title: Total Transfer
ID No: 003611905
Bulletin no.: 2009/002
Date of publication: 19/01/2009
Part: C.1.1

Title: Owners
Sub-title: Change of name and adress of owner
ID No: 003612093
Bulletin no.: 2009/002
Date of publication: 19/01/2009
Part: C.1.3

Renewals

No entry for application number: 004194437.

**MAJANDUS- JA KOMMUNIKATSIOONIMINISTEERIUM
TÖÖSTUSOMANDI
APELLATSIOONIKOMISJON**

Vaidlustusavaldus

Harju 11
15072 Tallinn
Tel. 6 256 393
Faks 6 313 660

TOAK
04. 07. 2011
Nr. 1337

Täidab tööstusomandi apellatsioonikomisjon:

Vaidlustusavalduse nr. .

Saabumise kuupäev:

Täidab vaidlustusavalduse esitaja:

kodumaine vaidlustusavalduse esitaja välismaine vaidlustusavalduse esitaja

1. Vaidlustusavalduse esitaja nimi:

SUMOL + COMPAL MARCAS, S.A.

2. Vaidlustusavalduse esitaja aadress:

Estrada da Portela, N°9 Portela de Carnaxide, 2790 -124 Oeiras Carnaxide, Portugal

3. Vaidlustatav tööstusomandi ese:

Kaubamärk "4 MOVE + kuju" (reg nr 1031791) klassis 32, avaldatud 02.05.2011
Omanik: FOODCARE SPÓLKA Z O.O.

4. Vaidlustusavalduse esitaja põhjendus:

vt lisa

5. Vaidlustusavalduse esitaja nõue:

Tühistada Patendiameti otsus kaubamärgi "4 MOVE + kuju" (reg nr 1031791) registreerimise kohta klassis 32 kaubamärgiseaduse § 10 lg 1 p 2 ja § 41 lg 2 alusel.

6. Patendivolinik (ees- ja perekonnanimi, patendibüroo nimi ja aadress, telefon, faks, e-post):

Riina Pärn (54), OÜ INTELS, Riia 11-3, 51010 Tartu; tel: 742 0401, faks: 742 0326
postiaadress: Magasini 12, 51005 Tartu; e-post: riina@intels.ee

7. Lisad:

vaidlustusavalduse lisa 6 lk

tõendid 9 lk

volikiri

dokument riigiloivu tasumise kohta: maksekorraldus nr 330, 04.07.2011

Allkiri: /Allkirjastatud digitaalselt/

Riina Pärn

Koht: Tartu

Patendivolinik

Kuupäev: 04.07.2011