MADRID AGREEMENT AND PROTOCOL

COMPLETION OF *EX OFFICIO* EXAMINATION

– INTERIM STATUS OF A MARK –

Rule 18*bis*(1)(a) and (b)

I. Office sending the statement: **Hungarian Intellectual Property Office**
1374 Budapest, Pf.552 Fax. :(361) 474 - 5534

II. Number of the International Registration: 107 5544
Date of extension of the mark to Hungary: 2010.12.23

III. Name of the holder (or other information enabling the identity of the international registration to be confirmed):
Bio-Rad Medical Diagnostics GmbH

IV.
The *ex officio* search for significant prior rights had been carried out according to Article 60 of the Act XI of 1997 on the protection of trade marks and geographical indications and

no significant prior rights had been revealed

x the following prior rights included in the enclosed search report were found.

The *ex officio* examination in respect of this international registration has been completed and

x no refusal based on absolute grounds for refusal has been communicated [Rule 18*bis*(1)(a)].

a notification of provisional refusal has been communicated by the Office [Rule 18*bis*(1)(b)].

V. The Office states that the protection of the international registration is still subject to opposition or observations by third parties [Rule 18*bis*(1)(a)] or [Rule 18*bis*(1)(b)].

The opposition period will start on 2011.09.28 and will expire on 2011.12.28

The protection of the international registration is still subject to observations before 2012.05.26

VI. Signature or official seal of the Office sending the statement:

SZELLEMI TULAJDON NEMZETI HIVATALA Közi Védjegy Osztály

dr. Márta Tóháti
head of the international trademark section

VII.
Examiner: Szarka Zoltán
Number of decision: A1075544 / 1
Date: 2011.08.30

540	TANGO					**EM**	
210	003189371	**220**	2003-05-08	**320**		**550**	W
111	003189371	**151**	2005-03-14	**511**	10,		
731	C.R. Bard, Inc. 07974 Murray Hill, (US) 730 Central Avenue						

540	TANGO					**EM**	
210	003323466	**220**	2003-08-22	**320**		**550**	W
111	003323466	**151**	2004-06-21	**511**	5,		
731	BASF SE, 67056 Ludwigshafen am Rhein (DE) Carl-Bosch-Str. 38						

540	TANGO					**EM**	
210	003980851	**220**	2004-08-12	**320**		**550**	W
111	003980851	**151**	2005-12-02	**511**	10,		
731	EUROSIREL S.r.l. 20019 Settimo Milanese MI (IT) Via Volta, 23						

(210)	Application number		
(111)	Registration number		
(220)	Filing date		
(320)	Date of priority	HU	Hungarian National Trade Mark
(151)	Date of registration	WO	International Trade Mark
(511)	Nice classes	EM	Community Trade Mark
(540)	Reproduction of the mark	IR	International Trade Mark desinating the EU
(550)	Type of mark: W - Word, F - Figurative, C - Combined		
(731)	Name and address of the applicant		

540	**TANGO INFINITY**		
210	A1075544	**220**	2010-12-23
320		**550**	W
511	1,5,10		

Number of results: 5

540	TANGO					**EM**	
210	005322995	**220**	2006-09-19	**320**	2006-09-19	**550**	W
111	005322995	**151**	2007-02-19	**511**	10,		
731	ResMed Limited, 2153 Bella Vista (AU) 1 Elizabeth Macarthur Drive						

540	TANGÓ					**HU**	
210	M9603267	**220**	1996-10-08	**320**		**550**	W
111	150989	**151**	1998-04-22	**511**	1, 2,		
731	TRILAK Festékgyártó Korlátolt Felelősségű Társaság 1238 Budapest (HU) Grassalkovich út 4.						

Act XI of 1997 on the Protection of Trademarks and Geographical Indications (extract)

Article 1(1) Trademark protection shall be granted for any signs capable of being represented graphically provided that these are capable of distinguishing goods or services from those of other undertakings.
(2) Signs which may be granted trademark protection are in particular:
(a) words, combination of words, including personal names and slogans,
(b) letters, numerals,
(c) figures, pictures,
(d) two- or three-dimensional forms, including the shape of goods or of their packaging,
(e) colors, combination of colors, light signals, holograms,
(f) sound signals, and
(g) combination of signs under (a) to (f).

Article 2 (1) A sign may not be granted trademark protection if it does not meet the requirements of Article 1.

(2) A sign shall be excluded from trademark protection if:

(a) it is devoid of any distinctive character, in particular if it consists exclusively 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 rendering of the service, or other characteristics of the goods or services, or which have become customary in the current language or in the practices of trade;

(b) it consists exclusively of a shape which results from the nature of the goods themselves or which is necessary to obtain a technical result or which gives substantial value to the goods.

(3) A sign shall not be excluded from trademark protection in accordance with paragraph (2)(a) if, either before or after the date of priority, it has acquired a distinctive character.

Article 3 (1) A sign may not be granted trademark protection if:

(a) it is contrary to public policy or to accepted principles of morality;

(b) it is liable to deceive consumers as to the nature, quality, geographical origin or other characteristics of the goods or services;

(c) its registration was applied for in bad faith.

(2) A sign shall be excluded from trademark protection if:

(a) it consists exclusively of State emblems or other emblems of an authority or international organization as defined in the Paris Convention for the Protection of Industrial Property;

(b) it relates to medals, badges, armorial bearings, not covered by subparagraph (a) above, or to official signs and hallmarks indicating control and warranty which are of public interest;

(c) it consists of symbols having a close relation to religious or other beliefs.

(3) Trademark protection shall be granted with the consent of the competent authority to signs of which the emblems defined under paragraph 2 (a) and (b) form only an element.

(4) A sign may not be granted trademark protection if it consists of or contains a geographical indication registered pursuant to this Act or to European Community law. This provision shall apply to goods which do not originate in a geographical area corresponding to the geographical indication or in connection with which the geographical indication cannot be used for any other reason on the basis of the provisions of this Act or of European Community law.

Article 4 (1) A sign may not be granted trademark protection:

(a) with respect to identical goods or services, if the sign with the later date of priority is identical with an earlier trademark;

(b) if because of its identity with or similarity to the earlier trademark and the identity or similarity of the goods or services there exists a likelihood of confusion on the part of the consumers;

(c) with respect to dissimilar goods or services if the sign with the later date of priority is identical with or similar to an earlier trademark having a reputation in the country where the use without due cause of the later sign would take unfair advantage of or be detrimental to the distinctive character or the repute of the earlier trademark.

(2) "Earlier trademark" means a trademark whose registration was applied for with an earlier date of priority or – for the purposes of paragraph (1)(a) and (b) – a sign which has become well-known at an earlier date in the country under the Paris Convention for the Protection of Industrial Property even if that sign is not registered. "Earlier trademark" shall also mean – depending on the registration of the sign – an earlier trademark application.

(3) A sign may not be refused trademark protection if it conflicts with an earlier trademark, which has not been used by the holder in accordance with the provisions of Article 18.

(4) For the purposes of this Act, the likelihood of confusion includes the likelihood of association with the earlier trademark.

Article (5) A sign may not be granted trademark protection:

(a) if it would infringe earlier personal rights of others, in particular a right in a name or of personal portrayal;

(b) if it would conflict with an earlier copyright or industrial property right of others, including conflict with the name of a protected plant variety.

(2) A sign shall not be granted trademark protection

(a) if it has been used effectively in the country without registration where the use of the sign without the consent of the prior user would be contrary to law; and

(b) if, with respect to identical or similar goods or services, it is identical with or similar to a trademark whose protection has lapsed by reason of expiration and less than two years have elapsed since the lapse, unless the earlier trademark had not been used in conformity with the provisions of Article 18.

(3) In determining whether a right, use or expiration is deemed as earlier within the meaning of paragraphs (1) and (2), the priority of the application for registration shall be taken into account.

Article (6) A sign shall be excluded from trademark protection if the representative or agent applies for registration in his own name without the holder's authorization, unless the representative or agent justifies his action.

Article 7(1) A sign may not be refused trademark protection in accordance with Articles 4 and 5 if the holder of the earlier right consents to the registration of the later sign.

(2) A declaration of consent shall be valid if drawn up as a public instrument or a private document providing sufficient evidence.

(3) A declaration of consent may be contested under those provisions of the Civil Code that concern actions for avoidance of a contract by reason of mistake, deception or threat; the declaration may not be withdrawn and may not be replaced by the decision of a Court.

Article 8(1) Trademark protection shall be granted for a sign if

(a) it satisfies the requirements of Article 1 and is not excluded from trademark protection under the terms of Articles 2 to 7 and

(b) the relevant application complies with the requirements laid down by this Act.