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

#### PROVISIONAL REFUSAL OF PROTECTION

Rule 17(1)

I. Office making the notification:  STATE-PATENT-BUREAU  OF THE REPUBLIC OF LITHUANIA  Kalvarijų g. 3, LT-09310 Vilnius  LITHUANIA	Tel.: (370-5) 27 80 267 Fax.: (370-5) 27 50 723
II. Number of the international registration:	1 089 599
III. Name of the holder and other indications of the	international registration:
Name of the holder:  Verbal elements of the Mark:	Obchtchestvo s ogranitchennoi otvetstvennostiou "Laboratoria sovremennogo zdorovia" PANTORAL
Basic registration:	RU, 06.04.2011, 434512
IV. Provisional refusal based on an oppositi	on
Name and address of the opponent:	Nycomed GmbH
	Byk-Gulden-Str. 2
	Konstanz (DE)
Name and address of the representative:	Reda Žaboliene
	Advokatės Redos Žabolienės kontora METIDA
	Verslo centras VERTAS, Gynėjų g. 16
·	LT-01109 Vilnius
	Tel.+370 5 249 0830, Fax.+370 5 249 0833
V. Provisional refusal for all the goods a  Provisional refusal for some of the go  [followed by an indication of the goods and.]	
X. Date of the notification of provisional refusal:	14.12.2011
XI. Signature or official seal of the Office making  Deputy Head of the Trademark IR DIZAING and Designs Division  PREKIŲ ŽENK IR DIZAING SKYRIUS	

\* - if the space available is insufficient, see a continuation sheet

No: 1 of IV **CONTINUATION SHEET** VI. Grounds for refusal [(where applicable, see item VII)]: The mark would infringe rights acquired by third parties resulting from an earlier registration(s)  $\boxtimes$ Other grounds. 07.11.2011 No. PTZ-42 Opposition filed with the Division of Appeals of the State Patent Bureau on: VII. Information relating to an earlier mark:\* Community Trade Marks (copy enclosed): No 003176013 No 003622362 No 005547501 No 006383137 National registration (extract enclosed): International registration (copy enclosed): VIII. Corresponding essential provisions of the Lithuanian Law Article 7 (1)(2)

IX. Information relating to subsequent procedure:

on Trade Marks [(see text under XII)]:\*

The proprietor of a mark of international registration against which an opposition has been filed must within a five months period from the date of this notification present a justified reply to opposition. The justified reply should be addressed to the Appeals Division of the State Patent Bureau. It should be presented in Lithuanian language and an address for the correspondence in the territory of the Republic of Lithuania should be indicated. Where the trademark owner is not a resident of the Republic of Lithuania or another member state of the European Union, neither he has subsidiary or representation registered in the Republic of Lithuania or another member state of the European Union, the justified reply should be presented through a patent attorney of the Republic of Lithuania. The list of patent attorneys is available on http://www.vpb.gov.lt/engl/. The time limit expires on 14.05.2012.

#### XII. Corresponding essential provisions of the Lithuanian Law on Trade Marks:

#### Article 5. Signs of Which a Mark May Consist

Marks, with respect to which legal protection under this Law is applicable, may consist of signs, in particular:

- 1) words, personal surnames, names, artistic pseudonyms, names of the legal entities, slogans;
- 2) letters, numerals;
- 3) drawings, emblems;
- 4) three-dimensional forms (the shape of goods, their packaging or containers);
- 5) colours or combinations of colours, their compositions;
- 6) any combination of signs specified in subparagraphs 1-5 of this Article.

#### -Article 6.-Absolute Grounds for Refusal of Registration or Invalidation of a Mark

- 1. A sign shall not be recognised as a mark and shall be refused registration or the registration of a registered mark shall be declared invalid if:
  - 1) the sign cannot constitute a mark under the requirements of Article 5;
  - 2) the sign is devoid of any distinctive character;
- 3) it has become customary in the current language or in the bona fide and established practices of the trade:
- 4) 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, the mode of production or other characteristics of the goods and/or services;
- 5) the sign is of such a nature as to mislead the public, for instance as to the nature, quality or geographical origin of the goods and/or services;
- 6) the sign is contrary to accepted principles of morality or public policy, including ethics of society and humanitarian principles;
- 7) the sign consists exclusively of the shape which results from the nature of the goods themselves or the shape of goods which is necessary to obtain a technical result or the shape which gives substantial value to the goods;
- 8) the sign consists of the official or traditional (abbreviated) state name of the Republic of Lithuania, or armorial bearings, flag or other state heraldic objects or any imitation from a heraldic point of view, also official signs and hallmarks indicating control and warranty, stamps, medals or marks of distinction, unless the permission for their use is in a mark has been issued according to the established procedure by the institution authorised by the Government of the Republic of Lithuania;
- 9) it consists of the signs the registration of which has not been authorised by the competent authorities of other states or international organisations and the registration of which is to be refused or invalidated pursuant to Article 6ter of the Paris Convention;
  - 10) it is a sign of high symbolic value, in particular a religious symbol;
- 11) it contains or consists of a geographical indication with respect to goods not originating in the territory indicated, if use of the indication in the mark for such goods in the Republic of Lithuania is of such a nature as to mislead the public as to the true place of origin of the goods. The above provision shall also be applicable against a geographical indication which, although literally true as to the place of origin of the goods, falsely represent to the public that the goods originate in another territory;
- 12) it contains or consists of a geographical indication identifying wines for wines or spirits for spirits not originating in the place indicated by the geographical indication in question, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as "kind", "type", "style", "imitation" or the like.
- 2. In the cases provided for in subparagraphs 2, 3 or 4 of paragraph 1 of this Article, a sign may be recognised as a mark and its registration may not be invalidated if, before the date of application for registration, after the date of filing of the application or registration of the mark and following the use which has been made of it, it has acquired distinctive character.

#### Article 7. Other Grounds for the Invalidation of Registration

- 1. Registration of a mark shall be declared invalid if the mark is:
- 1) identical with an earlier mark, and the goods and/or services for which the mark is registered are identical with the goods and/or services for which the earlier mark is applied for or is registered;
- 2) identical with or similar to the earlier mark and because of the identity or similarity of the goods and/or services covered by the marks there exists a likelihood of confusion on the part of the public; the likelihood of confusion includes the likelihood of association with the earlier mark;
- 3) identical with the mark recognised as well-known in the Republic of Lithuania in the manner prescribed by Article 9 of this Law, the proprietor of which is another person, or because of its similarity to the mark it is liable to mislead the public;
- 4) identical with the name of the legal entity or processing a misleading likelihood to the name of the legal entity, whose proprietor is another person who acquired the right to the name of the legal entity in the Republic of Lithuania before the date of filing of the application for the registration of the mark or the date of the priority, if on the specified date the firm had a right to engage in identical or similar trade to which the goods and/or services covered by the registered mark may be attributed;

5) identical with the geographical indication protected in the Republic of Lithuania or possessing a misleading likelihood thereto, except for the indication incorporated in the mark as the disclaimer, for which registration is applied for by a person entitled to use the geographical indication;

6) identical with the protected industrial design or any other object of industrial property, literary, scientific or artistic work protected under the copyright, the name or surname or artistic pseudonym of a famous person, or the portrait of another person or its likelihood to the above is misleading, except in cases where consent has been

granted by the owner of the rights or the successor to them.

7) identical with, or similar to, an earlier Community trade mark and where the later mark is to be, or has been registered for goods and (or) services which are not similar to those for which the earlier Community trade mark is registered, where the earlier Community trade mark has a reputation in the European Community and where the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier Community trade mark (...)

3. Registration of the mark may be declared invalid where it becomes evident that the application

for the registration of a mark was made in bad faith by the applicant.

Article 11. Filing of an Application

(...) Foreign nationals who are not permanent residents of the Republic of Lithuania or another member state of the European Union, and legal persons of foreign states who do not have a subsidiary or representation registered in the Republic of Lithuania or another member state of the European Union, shall file applications to the State Patent Bureau and perform all actions relating to the registration of the mark with the State Patent Bureau, including also representation at the Appeals Division, through the patent attorney of the Republic of Lithuania (...)

Article 18. Opposition

1. Within a period of three months following the publication of the registered Mark in the Official Bulletin of the State Patent Bureau, the interested person may give to the Appeals Division a justified written opposition to registration of the mark on the grounds that it may not be registered under Articles 6 and 7 of this Law (...)

7. The decision made by the Appeals Division may be appealed against to the Vilnius County Court within

six months from the day of adoption thereof.

8. Decisions made by the Appeals Division shall be published in the Official Bulletin of the State Patent Bureau.

Article 19. Appeal and Opposition Examination at the State Patent Bureau

2. The applicant, the interested person, the proprietor of the mark against which opposition has been filed or the representatives of the above persons shall have the right to take part in the appeal or opposition proceedings at the Appeal Division (...)

# Article 34. Special Provisions Applicable to International Registration of a Mark

4. The proprietor of a mark of international registration against which an opposition has been filed must within a five months period from the date of Notification of Refusal to the International Bureau appoint his representative in the manner laid down in paragraph 2 of Article 11 of this Law and present a justified reply to opposition. Failure to present a justified reply to the opposition shall be considered as a refusal to take part in the examination of the opposition and shall not prevent the Appeals Division from examining the opposition in the absence of the proprietor of the mark of international registration or his representative. If the proprietor of the mark of international registration to which the opposition is filed fails to appoint his representative, the decision made by the Appeals Division shall not be communicated to the proprietor of the mark of international registration (...)

Article 49. Institutions Having Jurisdiction in Disputes Relating to Marks

- 1. The Appeals Division of the State Patent Bureau shall deal with disputes provided for in Article 18 of this Law.
  - 2. The Vilnius County Court shall deal with disputes relating to:
  - 1) decisions of the Appeals Division of the State Patent Bureau;
  - 2) invalidation of registration of a mark;
  - 3) revocation of registration of a mark;
  - 4) enforcement of the proprietor's rights;
  - 5) recognition of the mark as well-known in the Republic of Lithuania;
- 6) Community trade marks as defined in Articles 90-101 of the Council Regulation on Community trade mark.

The Trade Marks and Designs Registration Office of the European Union

You are here: <u>Home</u> > <u>Quality plus</u> > Databases

#### CTM-ONLINE - Detailed trade mark information

Trade mark name : Trade mark No : Trade mark basis: Date of receipt : PANTOLOC 003176013 CTM

Number of results:

21/05/2003 1 of 1

Request an inspection

R Certified copy of the Registration Certificate

Trade mark

Filing date:
Date of registration:
Expiry Date:
Nice Classification:
Trade mark:
Type of mark:

21/05/2003 08/07/2004 21/05/2013 5 ( Nice classification) Individual Word

Acquired distinctiveness: Applicant's reference: Status of trade mark:

RPD/TM-ho/pantoloc
Registered (♥ Glossary)
Publication of registration

1 95

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(♥ Publication B1 or Publication B2) (♥ History of statuses)

German English

Filing language: Second language:

Graphic representation

No entry for application number: 003176013.

Nice Classification: List of goods and services

5 Medicines for human purposes, namely gastrointestinal preparations.

Description

Description of the mark:

Owner

Name: ID No:

No: Natural or legal person: Address:

Address: Post code: Town: Country: Correspond

Correspondence address:

Telephone:

Nycomed GmbH 303297 Legal entity Byk-Gulden-Str. 2 78467 Konstanz GERMANY

Nycomed GmbH P.O. Box 100310 D-78403

Konstanz ALEMANIA 00 49-7531845221 00 49-7531845350

Representative

Name:

ID No:
Firm Name:
Type:
Address:
Post code:
Town:
Country:
Correspondence address:

Wolfgang Feiler 12289 Nycomed GmbH 5 - Employee Byk-Gulden-Str. 2

78467 Konstanz GERMANY

Nycomed GmbH Wolfgang Feiler P.O. Box 10 03 10 D-

78403 Konstanz ALEMANIA

Telephone: Fax: 00 49-7531845221 00 49-7531845350

E-mail:	∓ wolfgang.feiler@nycomed.com		
	Seniority		
No entry for application number: 0	03176013.		
	Exhibition priority		
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Avenida de Europa 4, E-03008 Alicante, Spain - Tel: +34 96 513 9400 - e-mail:

The Trade Marks and Designs Registration Office of the European Union

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## CTM-ONLINE - Detailed trade mark information

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Trade mark name : Trade mark No : Trade mark basis: Date of receipt :	PANTOPAC 003622362 CTM 22/01/2004	
Number of results: Request an inspection	1 of 1	
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Filing date: Date of registration: Expiry Date: Nice Classification:	22/01/2004 18/04/2005 22/01/2014	_
Trade mark:	5 (♥ Nice classification) Individual	
Type of mark: Acquired distinctiveness:	Word No	
Applicant's reference: Status of trade mark:	RPD/TM-ho/pantopac	
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	Publication of registration	
	(⇔ Publication B1 or Publication B2) (⇔ History of statuses)	
Filing language: Second language:	German English	
	Graphic representation	>
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Nice Classification:	List of goods and services	•
List of goods and services	5 Medicines for human purposes, namely gastrointestinal preparations.	
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Description of the mark:		•
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	Owner	•
Name: ID No:	Nycomed GmbH 303297	
Natural or legal person:	Legal entity	
Address: Post code:	Byk-Gulden-Str. 2 * 78467	
Town; Country:	Konstanz	-
Correspondence address:	GERMANY Nycomed GmbH P.O. Box 100310 D-78403	
Telephone:	Konstanz ALEMANIA 00 49-7531845221	
Fax:	00 49-7531845350	
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Bulletin no.:	0.5			
Date_of_publication;	F 2005/036			
Part:	05/09/2005 8.1			
Bulletin no.:	<b>F 2007/026</b>			
Date of publication: Part:	18/06/2007 · C.2.4			
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Bulletin no.:	<b>₹ 2007/043</b>			. •
Date of publication: Part:	20/08/2007		•	
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Sub-title:	Deletion			
ID No: Bulletin no.:	002487992	•	•	
Date of publication:	F 2007/026			
Part:	18/06/2007 C.2.4			
Title: Sub-title:	Owners	_		
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The Trade Marks and Designs Registration Office of the European Union

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## CTM-ONLINE - Detailed trade mark information

	Machine Committee of the Committee of th	
Trade mark name :	PANTOMED	40
Trade mark No :	005547501	
Trade mark basis:	СТМ	
Date of receipt :	12/12/2006	
Number of results:	1 of 1	
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•	Trade mark	
Filing date:	12/12/2006	•
Date of registration:	03/09/2008	
Expiry Date:	12/12/2016	
Nice Classification:	5 ( Nice classification)	
Trade mark: Type of mark:	Individual	
Acquired distinctiveness:	Word No	
Applicant's reference:	RIP/TM-gm/PANTOMED	
Status of trade mark:	Registered ( Glossary)	
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	( Publication B1 or Publication B2)	
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Nice Classification:	. 5	•
List of goods and services	Pharmaceutical preparations for the treatment of	
	gastrointestinal diseases.	
	Description	
	Description	Ø
Description of the mark:	•	
	A	
	Owner	6
Name:	Nycomed GmbH	
ID No: Natural or legal person:	303297	
Address:	Legal entity Byk-Gulden-Str. 2	
Post code:	78467	
Town:	Konstanz	
Country: Correspondence address:	GERMANY	
correspondence address:	Nycomed GmbH P.O. Box 100310 D-78403 Konstanz ALEMANIA	•
Telephone:	00 49-7531845221	
Fax:	00 49-7531845350	
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Bulletin no.; Date of publication: Part:	F 2007/043 20/08/2007 C.1.3				
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The Trade Marks and Designs Registration Office of the European Union

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#### CTM-ONLINE - Detailed trade mark information

Trade mark No: Trade mark basis: Date of receipt : Number of results:

PANTOSAL 006383137  $\mathsf{CTM}$ 22/10/2007 1 of 1

Request an inspection

Trade mark

Filing date: Nice Classification: Trade mark:

Type of mark: Acquired distinctiveness:

Applicant's reference: Status of trade mark:

Filing language: Second language: 22/10/2007

5 ( Nice classification) Individual

Word

RIP/TM-gm/PANTOSAL Application opposed

(➡ History of statuses) German

English

Graphic representation

No entry for application number: 006383137.

F List of goods and services

Nice Classification:

List of goods and services

Pharmaceutical preparations, namely medicines for human beings, for treating gastro-intestinal disorders.

1 1300-

( Glossary)

3

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6

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Description

Description of the mark:

Owner

ID No:

Natural or legal person: Address: Post code:

Country:

Name:

Correspondence address:

Telephone:

Nycomed GmbH 303297

Legal entity Byk-Gulden-Str. 2 78467 Konstanz GERMANY

Nycomed GmbH P.O. Box 100310 D-78403 Konstanz ALEMANIA

00 49-7531845221 00 49-7531845350

Representative

Name:

Fax:

ID No: Firm Name: Type: Post code: Town:

Correspondence address:

Telephone: E-mail:

Wolfgang Feiler 12289 Nycomed GmbH 5 - Employee Byk-Gulden-Str. 2 Konstanz GERMANY

Nycomed GmbH Wolfgang Feiler P.O. Box 10 03 10 D-

78403 Konstanz ALEMANIA 00 49-7531845221

00 49-7531845350

F wolfgang.feiler@nycomed.com

Seniority

No entry for application number: 006383137

	Exhibition priority	42%	
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			·
	<b>♥</b> Opposition	<i>6</i>	
Opposition No: Reception date: Opponent name: Opponent ID No:	001367301 05/08/2008 HEXAL AKTIENGESELLSCHAFT 9777	•	
Opposition No:	001343344		
Reception date: Opponent name: Opponent ID No:	20/06/2008 TAD Pharma GmbH 77107		
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