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

EX OFFICIO PROVISIONAL REFUSAL OF PROTECTION ACCORDING TO RULE 17 (2)

I. National office that notifies the refusal of protection:

The Swedish Patent and Registration Office
Trademarks Sections
Box 530
S-826 27 Söderhamn
Sweden

Telephone:int + 46 8 782 25 00
Telefax: int + 46 270 173 51

II. Number and wording of the international registration which is subject to refusal: 1075544, TANGO INFINITY

III. GROUNDS FOR REFUSAL:

The mark is confusingly similar to the mark(s) under the Madrid Protocol:
700616 TANGO
In respect of the following goods/services:
Class 10: Devices and instruments for medical, veterinary and/or research analysis and diagnostic used in the field of blood analysis.

IV. Provisions of the Swedish Trademarks Act (enclosed): Chap. 2 Art. 8 par. 1 Item 2

V. Refusal for some of the goods and/or services:
Class 10: Devices and instruments for medical, veterinary and/or research analysis and diagnostic used in the field of blood analysis

VI. The holder of the registration may request a review of the refusal. The request must be received by the Swedish Patent and Registration Office no later than 3 (three) months after the date of the refusal, that is 20-10-2012. The request must be filed in Swedish.
Please note that if the designation is accepted subsequent to a review or an appeal, an opposition may be filed against the mark within 3 (three) months of the publication of the mark. Oppositions may be filed after the end of the 18-month period (Article 5(2)(c)(i) of the Protocol, Rule 16(1). Information concerning the dates on which the opposition period begins and ends will be communicated as soon as they are known.

VII Date of the notification of the provisional refusal: 20-07-2012

VIII. Signature by the Office: Marta Hugosson Marta Hugosson

Number of continuation sheets: 3

Extract from the Swedish Trademarks Act

Chapter 1. Basic Provisions

Article 5. A trade symbol shall be considered to be distinctive if it is able to distinguish goods or services that are being made available in one business activity from those that are being made available in another one.

Lack of distinctiveness may be caused by the fact that a trade symbol consists only of signs or indications that
1. in the course of trade show the kind, quality, quantity, intended use, value, geographical origin or other characteristics, or the time of production, of the goods or services, or
2. in common language or according to established practice in trade have become a customary denomination for the goods or services.

In the determination of whether a symbol is distinctive, consideration shall be given to whether it can acquire distinctiveness thorough use.

Chapter 2. National Registration of Trademarks

Article 5. In order for a trademark to be registered, it must have distinctiveness in respect of the goods or services to which it relates.

Article 7. A trademark may not be registered if it
1.is contrary to law or other statutory provisions or to morality or public order,
2. is likely to deceive the public as regards the kind, quality, geographical origin or any other circumstance related to the goods or services,
3. contains, without permission, such a State or international emblem or such a municipal coat of arms that, by law or other statute, must not be used unwarrantedly as a trademark, or something that might be easily confused with such an emblem or such a coat of arms.

A trademark may, furthermore, not be registered if it contains or consists of something that is likely to be regarded as a geographical indication for wines or spirits and is related to wines or spirits of a different origin.

Article 8. A trademark may not be registered if it
1. is identical with an earlier trade symbol for goods or services of the same kind,
2. is identical with or is similar to an earlier trade symbol for goods or services of the same or similar kind, if there is, due to this fact, a risk of confusion, including the risk that the use of the trademark gives the impression that there is a link between the party using the trademark and the holder of the trade symbol,
3. is identical with or similar to an earlier trade symbol which is known in a considerable portion of the those to whom it is addressed, and the use of the trademark would attract undue advantage of, or without legitimate reason cause damage to, the distinctiveness or reputation of the trade symbol, or
4. may easily be confused with a symbol that is used in this country or in a foreign country at the time of the application and is still in use, if the applicant was in bad faith at the time of the application.

As a trade symbol referred to in the first Paragraph, 1 to 3, is deemed
1. a trademark that is registered pursuant to this Chapter,
2. a trademark that is registered on the basis of an international trademark registration which is valid in Sweden pursuant to Chapter 5,
3. a trade symbol that is established on the market, if the protection based on the establishment on the market is valid within a considerable part of the country, and
4. a Community Trade Mark.

Article 9. The obstacles to registration referred to in Article 8, first Paragraph, to 3, apply *mutatis mutandis* also as regards
1. a registered trade name that is being used in commercial activities,
2. such a name or a business symbol other than one protected pursuant to Chapter 1, Article 8, if the protection applies within a considerable part of the country.

Article 10. A trademark may not be registered if it contains or consists of
1. something that is likely to convey the impression of being someone else's trade name,
2. something that is likely to convey the impression of being someone else's distinctive family name, generally known artistic name or similar name, if the use of the trademark would cause disadvantage for the holder of the name and if the name does not obviously relate to someone who is long deceased,
3. a picture of someone else that does not obviously relate to someone who is long deceased,
4. something that violates someone else's copyright in a literary or artistic work or some else's right in a photographic picture or in a design.

Article 11. The provisions of Articles 8 to 10 do not constitute an obstacle to registration if the holder of the earlier right consents to the registration.

Chapter 5. International Trademark Registration

Article 8. If the Patent and Registration Office receives a notification from the International Bureau to the effect that someone has applied for an international trademark registration to be extended to Sweden, the Office shall examine whether there exists any obstacle to this.

An obstacle to the extension to Sweden of the international trademark application exists if there would have been an obstacle to a national registration of the trademark pursuant to Chapter 2, Articles 4 to 11.

If the Patent and Registration Office considers that an obstacle exists under the second Paragraph, the Office shall inform the International Bureau that the international trademark registration cannot, wholly or in part, be extended to Sweden. Such information shall be given within 18 months from the date of the notification and contain the grounds why the registration cannot be extended here.

Article 9. If the Patent and Registration Office has informed the International Bureau under Article 8, third Paragraph, the Office shall not earlier than three months after the information was transmitted decide that the international trademark registration shall not, wholly or in part, extend to Sweden if at that point in time an obstacle referred to in Chapter 2, Articles 4 to 11 still exists.

Article 10. If no obstacle referred to in Chapter 2, Articles 4 to 11 exists, the Patent and Trademark Office shall enter the trademark in the Trademark Register and publish a notice that the international trademark registration is valid in Sweden.
If the Patent and Trademark Office has decided that the international trademark registration shall partly not be valid in Sweden, the entry of the trademark in the Trademark Register and the publication of a notice shall concern only the remainder of the goods or services when the decision has taken legal force.

Article 15. After an opposition has been filed, the Patent and Registration Office shall decide that the international trademark registration shall, wholly or in part, not extend to Sweden if an obstacle referred to Chapter 2, Articles 4 to 11, exists to its extension here. If no such obstacle exists, the opposition shall be rejected. An opposition that is wholly or in part based on an obstacle referred to in Chapter 2, Articles 8 to 10, shall be rejected in those parts if it has been filed by someone who does not act in his own interest and the holder of the registration so requests.

A decision that the registration shall not extend to Sweden may be based only on a circumstance that has been communicated to the International Bureau within 18 months from the date of the notification under Article 8, first Paragraph. If the time for opposition has expired after that time limit, the decision may nevertheless be based on circumstances that have been communicated to the International Bureau within a month from the expiry of the time limit for opposition. This applies on condition that the Patent and Registration Office within the time limit of 18 months has informed the International Bureau that a notification about such a decision may be communicated later.

If, due to an opposition, the Patent and Registration Office, decides that the registration shall, wholly or in part, not extend to Sweden, the trademark shall to a corresponding extent be removed from the Trademark Register when the decision has taken legal force. A notice about the decision shall be published.

Registreringsnummer:	**700616**	**Registrerad hos WIPO**	1998-09-03
Ansökningsnummer:	700616	**Designeringsdatum**	1998-09-03
Figurklasser:	26.1.1; 26.1.4; 27.1.1; 27.5.1; 29.1.1; 29.1.8		



Beskrivning

Black, red, white.

Klassificering

10: Analytical apparatus for medical purposes. Analytical apparatus for medical purposes.

Kommentar

FG: 30. 26.01; 27.01; 27.05; 29.01. TJ: sah

Innehavare

BIOTEST Aktiengesellschaft, Landsteinerstrasse 5, 63303 Dreieich, Germany

WIPO Ombud

Schwabe, Sandmair & Marx, Patentanwälte, Stuntzstrasse 16, 81677 München, Germany