



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:

1089599

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

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

Opposition made on 31/08/2012 by Nycomed GmbH on the grounds that the company has an earlier CTM No. 006383137 PANTOSAL (copy of the registration enclosed), which is registered for identical and similar kind of goods as the international registration No. 1089599 and the marks are similar to the extent that there exists a likelihood of confusion on the part of the public (copy of the notification about opposition enclosed).

The name and the address of the opponent are:
Nycomed GmbH
Byk-Gulden-Str. 2
78467 Konstanz
GERMANY

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 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 Justice
Tõnismägi str. 5A
15191 Tallinn
ESTONIA

The time limit expires 14/12/2012 (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: 19/09/2012 (dd/mm/yyyy).

IX. Signature of the Office:



Janika Kruus
Head 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.

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CTM-ONLINE - Detailed trade mark information



Trade mark name : PANTOSAL
 Trade mark No : 006383137
 Trade mark basis: CTM
 Date of receipt : 22/10/2007
 Number of results: 1 of 1

Request an inspection

Certified copy of the Registration Certificate



	Trade mark	
Filing date:	22/10/2007	
Date of registration:	03/02/2012	
Expiry Date:	22/10/2017	
Nice Classification:	5 (Nice classification)	
Trade mark:	Individual	
Type of mark:	Word	
Acquired distinctiveness:	No	
Applicant's reference:	RIP/TM-gm/PANTOSAL	
Status of trade mark:	Registered	(Glossary)
	Publication of registration	☒
	(Publication B1 or Publication B2)	
	(History of statuses)	
Filing language:	German	
Second language:	English	

Graphic representation

No entry for application number: 006383137.

List of goods and services

Nice Classification: 5
 List of goods and services: Pharmaceutical preparations, namely medicines for human beings, for treating gastro-intestinal disorders.

Description

Description of the mark:

-

Owner

Name: Nycomed GmbH
 ID No: 303297
 Natural or legal person: Legal entity
 Address: Byk-Gulden-Str. 2
 Post code: 78467
 Town: Konstanz
 Country: GERMANY
 Correspondence address: Nycomed GmbH P.O. Box 100310 D-78403
 Konstanz ALEMANIA
 Telephone: 00 49-7531845221
 Fax: 00 49-7531845350

Representative

Name: Wolfgang Feiler
 ID No: 12289
 Firm Name: Nycomed GmbH
 Type: 5 - Employee
 Address: Byk-Gulden-Str. 2
 Post code: 78467
 Town: Konstanz
 Country: GERMANY
 Correspondence address: Nycomed GmbH Wolfgang Feiler P.O. Box 10 03 10 D-78403 Konstanz ALEMANIA
 Telephone: 00 49-7531845221
 Fax: 00 49-7531845350

E-mail:  wolfgang.feiler@takeda.com

Seniority

No entry for application number: 006383137.

Exhibition priority

No entry for application number: 006383137

Priority

No entry for application number: 006383137.

International Registration Transformation

No entry for application number: 006383137.

Publication

Bulletin no.:  **2008/018**
Date of publication: 05/05/2008
Part: A.1

Bulletin no.:  **2012/026**
Date of publication: 07/02/2012
Part: B.1

** Opposition**

Opposition No: 001367301
Reception date: 05/08/2008
Opponent name: HEXAL AKTIENGESELLSCHAFT
Opponent ID No: 9777

Opposition No: 001343344
Reception date: 20/06/2008
Opponent name: TAD Pharma GmbH
Opponent ID No: 77107

Cancellation

No entry for application number: 006383137

Appeals

No entry for application number: 006383137.

Recordals

No entry for application number: 006383137.

Renewals

No entry for application number: 006383137.



Version: 9.4.7

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Office for Harmonization in the Internal Market (Trade Marks and Designs)
Avenida de Europa 4, E-03008 Alicante, Spain - Tel: +34 96 513 9400 - e-mail:

1427

Tööstusomandi apellatsioonikomisjon
 Majandus- ja Kommunikatsiooniministeerium
 Harju 11, Tallinn 15072
 Tel 625 6490, faks 625 6404

VAIDLUSTUSAVALDUS

Täidab tööstusomandi apellatsioonikomisjon

Vaidlustusavalduse nr:
 Saabumise kuupäev:

Täidab vaidlustusavalduse esitaja

- ☐ kodumaine vaidlustusavalduse esitaja
☒ välismaine vaidlustusavalduse esitaja

1.1. Vaidlustusavalduse esitaja nimi ja aadress ning muud kontaktandmed:

Nycomed GmbH
 Byk-Gulden-Strasse 2, 78467 Konstanz, DE

1.2. Vaidlustusavalduse esitajat esindav patendivolinik:

Urmas Kauler, reg nr 35
 Patendibüroo TURVAJA OÜ, Liivalaia 22, 10118 Tallinn
 tel 6 403 109, faks 6 403 105

2. Andmed vaidlustatava tööstusomandi eseme kohta:

Patendiameti otsus nr 7/R201101251, millega Obchtchestvo s ogranitchennoi otvetstvennostiou "Laboratoria sovremennogo zdorovia" omandab Eesti Vabariigis ainuõiguse kaubamärgile PANTORAL klassis 5. Kaubamärgi registreerimise otsuse teade avaldati 01.08.2012 väljaandes Eesti Kaubamärgileht nr 8/2012.

3. Vaidlustusavalduse esitaja põhjendus õigusrikkumise kohta:

Esitatud lisalehtedel.

4. Vaidlustusavalduse esitaja nõue:

Juhindudes kaubamärgiseaduse § 10 lg 1 p 2, § 41 lg 2 ning tööstusomandi õiguskorralduse aluste seaduse § 39 lg 1 p 2 ja § 61 lg 1 tühistada Patendiameti otsus nr 7/R201101251 kaubamärgi PANTORAL registreerimise kohta ning kohustada Patendiametit jätkama rahvusvahelise registreeringu nr 1089599 menetlust apellatsioonikomisjoni otsuses toodud asjaolusid arvestades.

5. Lisade loetelu:

- ☒ kaubamärgi registreerimise otsuse kohta avaldatud teade
☒ vaidlustusavalduse aluseks olevad tõendid
☒ dokument riigilõivu tasumise kohta – 31.08.2012 maksekorraldus nr 16320.
☒ volikiri

6. Allkiri

/digitaalselt allkirjastatud/

Urmas Kauler, patendivolinik

Tallinn, 31. august 2012. a.