



**ESTONIAN PATENT OFFICE
TRADEMARK DEPARTMENT**

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

NOTIFICATION OF *EX OFFICIO* PROVISIONAL REFUSAL

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:

**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: **1103796**

III. Other information concerning the international registration which is the subject of the provisional refusal:
Verbal elements of the mark: **APIVIT** (in Cyrillic)

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

The trademark is similar to the following Community trademark, which is filed for registration for identical and similar kind of goods (copy of the trademark enclosed):

APIVITA (fig. mark), filed 05/03/2009 under the number 008139545.

The name and the address of the owner of the mark are:

Owner: Apivita S.A.
Address: Koletti Str. No. 3
14452 Athens
Country: GREECE

The written consent from the owner of the above-mentioned CTM is required after its registration for protection of the international registration in Estonia for part of the goods (see item VI.).

V. Provision of the Estonian Trademark Act applicable on the subject (enclosed):
Section 10 subsections 1(2) and 2
Section 11 subsections 1(7)

VI. The ground referred to in item IV. affects all following goods:

Class 5: all goods

Class 30: *Artificial coffee; chocolate-based beverages; cocoa; cocoa products; coffee; coffee-based beverages; honey; natural sweeteners; sugar; vegetal preparations for use as coffee substitutes.*

VII. The owner of the registration may request a review of the provisional refusal. The request shall be received by Estonian Patent Office no later than within 4 months from the date of the provisional refusal.

The time limit expires **16/05/2013** (dd/mm/yyyy).

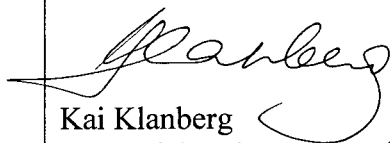
The request has to be filed through the authorized patent attorney of the Republic of Estonia (section 13 subsection 2 of the Estonian Trademark Act). List of patent attorneys is available at <http://www.epa.ee/>

Please note that if the owner of the registration fails to respond by the due date, the registration shall be deemed to be withdrawn for goods and services mentioned in item VI (section 38 subsection 2 of the Estonian Trademark Act). The owner may request that processing be resumed if the owner failed to perform the acts due to force majeure or some other impediment independent of the owner or the representative of the owner (section 47 subsection 3 of the Estonian Trademark Act).

Please note that if the mark is protected subsequent to reviewal of the provisional refusal an interested person may contest the owners right to a trade mark within two months as of the publication of the trade mark (section 41 subsection 2 of the Estonian Trademark Act).

VIII. Date on which the provisional refusal was pronounced: 16/01/2013 (dd/mm/yyyy).

IX. Signature of the Office:



Kai Klanberg
Head of the First International Trademark Examination Division

Number of continuation sheets: 2

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;

(2) Circumstances specified in clauses (1) 2)-6) of this section which preclude legal protection are not taken into account if the proprietor of the earlier trade mark or another earlier right consents to the registration of the later trade mark in writing.

§ 11. Earlier trade mark and other earlier rights

(1) "Earlier trade mark" means the following:

7) a Community trade mark filed for registration on the basis of the Community Trade Mark Regulation if the filing date of the application, priority date or the seniority date granted on the basis of Estonian registration is earlier; A trade mark filed for registration shall be an earlier trade mark only if it is registered.

§ 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.

§ 38. Examination of trade marks

(2) If an examination reveals circumstances which preclude the legal protection of a trade mark, the Patent Office shall notify the applicant thereof and set a term of at least two months for the elimination of the said circumstances or the provision of explanations. If the applicant fails to respond by the due date, the application shall be deemed to be withdrawn.

§ 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.

§ 47. Withdrawal of applications, termination and resumption of processing

(3) An applicant may request that processing be resumed if the Patent Office terminated processing having deemed the application to be withdrawn pursuant to § 37, 38 or 46 of this Act and if the applicant failed to perform the acts due to force majeure or some other impediment independent of the applicant or the representative of the applicant.

§ 69. Effect of international registration

(1) Legal protection arising from an international registration valid in Estonia is equal to legal protection arising from a national registration and the rights and obligations arising from an internationally registered trade mark.

OHIM

The Trade Marks and Designs Registration Office of the European Union

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CTM-ONLINE - Detailed trade mark information



Trade mark name : APIVITA
 Trade mark No : 008139545
 Trade mark basis: CTM
 Date of receipt : 05/03/2009
 Number of results: 1 of 1

Request an inspection

Certified copy of the Application form



	Trade mark	
Filing date:	05/03/2009	
Nice Classification:	5, 30, 35 (Nice classification)	
Trade mark:	Individual	
Type of mark:	Figurative	
Vienna Classification:	25.1.25, 26.4.1, 26.4.7, 26.4.22, 26.4.24 (Vienna Classification)	
Acquired distinctiveness:	No	
Status of trade mark:	Application opposed (Glossary)	
Filing language:	(History of statuses)	
Second language:	English	
National search requested:	French	
	No	

Graphic representation



List of goods and services

Nice Classification:	5
List of goods and services	Dietary and nutritional supplements made from bee products including propolis and pollen; hair growth stimulants, mouthwash preparations, feminine hygiene products, moisturizing and topical gels and creams for therapeutic use; natural oils, pastilles, pollen extracts, processed bee pollen for medical or therapeutic use
Nice Classification:	30
List of goods and services	Tea, herbal teas, royal jelly and honey
Nice Classification:	35
List of goods and services	The bringing together, for the benefit of others, of a variety of goods, namely, cosmetic preparations for slimming purposes, cosmetics, cosmetic creams, skin whitening creams, aromatic essential oils (such as aromatherapy oils), cosmetic preparations for bath and shower, after shave lotions (such as balms gels and

creams), almond milk for cosmetic purposes, almond oil, almond soap, ethereal essences, ethereal oils, extracts of flowers (perfumes) eau de cologne, eyebrow cosmetics, crayons for cosmetics use, non-medicated creams for protection against the sun, cosmetic skin preparations for protection against the effects of the sun, cosmetic sun protection products including non-medicated creams and lotions, non-medicated after-sun products including creams and lotions, make-up cosmetic products such as foundations (all make up liquid, make up compact foundations), powders (compact powders, loose powders), eye and lip colours, eye and lip pencils, eye liners and liquid lip colours, powdery cheek colours, liquid cheek colours, brow pencils, brow powder, make-up accessories (such as brushes), make-up removing cosmetic products such as creams, lotions and impregnated cloth for cosmetic use; beauty masks, astringents for cosmetic purposes, antiperspirant soap, breath freshening sprays, dentifrices denture polishes preparations for cleaning dentures, cleansing milk for toilet purposes, cosmetic kits, cotton sticks and cotton wool for cosmetic purposes, deodorant soap, liquid soap, medicated shampoo, deodorant for personal use, depilatories, depilatory preparations, cosmetic dyes, make-up powder, cosmetic products for lip protection, conditioners for treating the hair (such as hair care products, hair lotions), hair dyes; dietary and nutritional supplements made from bee products including propolis and pollen; hair growth stimulants; mouthwash preparations (medical); feminine hygiene products; moisturizing and topical gels and creams for therapeutic use; natural oils; cough pastilles for medical use; pollen extracts (dietary supplements); processed bee pollen for medical or therapeutic use; tea; herbal teas; royal jelly and honey, enabling customers to conveniently view and purchase those goods from a retail store and/or from general merchandise catalogue or general merchandise Internet website by means of telecommunications; provision of information, advise and/or assistance to customers in the selection of goods brought together by means of any of the aforesaid services

Description

Description of the mark:

Indication of colour : BLACK AND WHITE.

Owner

Name: Apivita S.A.
ID No: 160310
Natural or legal person: Legal entity
Address: Koleti Str. No. 3
Post code: 14452
Town: Athens
Country: GREECE
Correspondence address: Apivita S.A. Koleti Str. No. 3 GR-14452 Athens GRCIA

Representative

Name: VGENOPOULOS & PARTNERS
ID No: 22692
Type: 4 - Association
Address: 15 Filikis Eterias Sq.
Post code: 10673
Town: Athens
Country: GREECE
Correspondence address: VGENOPOULOS & PARTNERS 15 Filikis Eterias Sq. GR-10673 Athens GRCIA
Telephone: 00 30-2107206900
Fax: 00 30-2107231462
E-mail: mail@vgenopoulos-and-partners.gr

Seniority

No entry for application number: 008139545.

Exhibition priority

No entry for application number: 008139545

Priority

No entry for application number: 008139545.

International Registration Transformation

No entry for application number: 008139545.

Publication