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Danish Patent
and Trademark Office

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Danish Ministry of Economic
and Business Affairs

 Danish
patent institute

Our Reference: MP1158265
Your Reference: OT2798DK00
International Registration: 1158265
Holder: Albis Technologies AG
Mark: MetroIntegrator
Time Limit: 30 May 2014

30 January 2014

Dear Madam/Sir

Notification of Provisional Refusal Based on Opposition according to Rule 17(3)

An opposition against the validity of the above-mentioned designation of Denmark has been filed with the Danish Patent and Trademark Office by:

MIP METRO Group Intellectual Property GmbH & Co. KG
Metro-Strasse 1
DE-40235 Düsseldorf,
Germany

Consequently, the mark is provisionally refused protection in Denmark **for all of the goods/services** covered by the designation.

Grounds for the opposition

The opponent has stated the following reasons for the opposition:

- Identity/risk of confusion with an earlier registered trademark, cf. Section 15(1) (see appendix for trade marks cited by the opponent)

Please note that the opposed registration is subject to full examination by the Danish Patent and Trademark Office, cf. Section 23 of the Danish Trademark Act. We have enclosed an abstract of the relevant sections of the Danish Trade Marks Act and the Order on application and registration, as well as a copy of the opposition

Final decision and appeal

If we do not receive a request for review within the time-limit mentioned above, we will issue a final decision, which is subject to appeal to the Board of Appeal for Patents and Trademarks.

Further information

We have enclosed guidelines on our opposition procedures as well as an abstract of the relevant sections of the Danish Trade Marks Act. For further information about opposition procedures, please contact the examiner.

Yours faithfully

Helle Balthervin
Examiner, Trademarks/Design

Appendix

Guidelines on oppositions

We deal with oppositions in two phases:

- The hearing during which the opponent and the holder exchange arguments and documentation through our Office.
- The decision phase during which we review the arguments and documents and make a decision on this basis.

Hearing Procedure

Both parties are entitled to put forth their opinions and arguments. The extent of the hearing depends on the complexity of the case.

It is the role of the Office to make sure that each party is allowed the opportunity to present their arguments. We also provide guidance on aspects we find relevant to the case. The holder is always given the opportunity to respond to the opposition. Thus, at least one exchange of letters will take place.

When the opponent's mark is subject to the requirement of use

Please note that the holder may request the opponent to document that the opponent's mark has been used in accordance with the regulations of requirement of use of The Danish Trade Marks Act, Section 25. Under this provision, a Danish registration must have been in use in Denmark within the last five years. A Community trademark must have been used in at least one of the member states within the last five years. The holder must be able to prove that the mark has been used in relation to the goods and/or services covered by the registration. Otherwise, during the case, the registration will only be seen to cover the goods and services for which use has been documented.

Documents submitted to the Office

Please be aware that any documents submitted to us will be available to the public according to the regulations of The Danish Access to Public Administration Files Act. The material will also be sent to the opponent for comments according to the regulations of The Administration Act.

Time limits

During the hearing, both parties must reply within the time limits laid down by the Office. A time limit may be extended, usually for one or two months, if deemed reasonable.

If one party informs the Office that negotiations for a settlement are taking place, we will suspend the hearing procedure for 6 months. The hearing may be resumed at any time, if one of the parties wish so, or the opposition may remain suspended for 6 months at a time as long as negotiations are ongoing.

Decision

When we judge that the case is sufficiently elucidated, we inform the parties that the hearing procedure is finished, and the case ready to be decided.

When we make the decision, we review and evaluate the arguments and the materiel submitted by the parties. We also undertake additional investigations if necessary and review earlier practice.

A decision including grounds is sent to both parties. We will also inform the party or parties ruled against about the means to appeal with the Danish Board of Appeal for Patents and Trademarks.

Abstract of the Danish Trade Marks Act and Order on Application and Registration, etc. of Trade Marks and Collective Marks

Signs of which a trade mark may consist

Section 2

(1) A Trade mark may consist of any sign capable of distinguishing the goods or services of one enterprise from those of other enterprises and capable of being represented graphically, in particular:

- (i) words and word combinations, including slogans, personal names, company names or names of real property;
- (ii) letters and numerals;
- (iii) pictures and designs; or
- (iv) the shape, equipment or packaging of the goods.

(2) A trade mark right shall not be acquired for signs which consist exclusively of a shape which is dictated by the goods themselves, a shape of goods which is necessary to obtain a technical result or a shape which gives substantial value to the goods.

Registration of trade marks

Section 12

(1) An application for the registration of a trade mark shall be filed with the Patent and Trademark Office. The application shall contain a reproduction of the trade mark and state the applicant's name or company. Furthermore, the goods or services for which registration of the trade mark is applied for shall be stated.

(2) The application shall be drawn up in accordance with the provisions laid down pursuant to section 48. The prescribed fee shall accompany the application.

(3) The Patent and Trade mark Office shall keep a register of trade marks. The Office shall publish registrations, etc.

Grounds for refusal

Section 13

(1) For a trademark to be registered it shall be of the nature referred to in section 2, including a distinctive character.

(2) The following trademarks shall not be registered:

- (i) trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of the goods or of rendering the services or other characteristics of the goods or services;
- (ii) trademarks which consist exclusively of signs or indications which are customarily used to designate the goods or services in the current language or in the established practices of the trade.

(3) Irrespective of the provisions of sub-sections (1) and (2) a trademark may be registered if, before the filing of the application in consequence of the use which has been made thereof, it has acquired a distinctive character.

Section 14

Furthermore, the following shall not be registered:

- (i) trademarks which are contrary to law, public order or morality;
- (ii) trademarks which are liable to mislead the public, for instance as to the nature, quality or geographical origin of the goods or services;
- (iii) trademarks which have not been authorized by the competent authorities and are to be refused pursuant to Article 6ter of the Paris Convention for the Protection of Industrial Property, and trademarks which include badges, emblems and escutcheons which are of public interest, unless the consent of the appropriate authority to their registration has been given;
- (iv) trademarks which without permission consist of or contain an element which can be construed as a personal name or company name to which another party has a legal title, or as a portrayal provided allusion is not made to persons long dead, or which without permission contain a distinctive name of or a picture of the real property of another party;
- (v) trademarks which without permission consist of or contain an element which can be construed as a distinctive title of the protected literary or artistic work of another party or which infringe the copyright in such works or the right to a photograph of another party or the industrial property rights of another party.

Section 15

- (1) A trademark shall not be registered if:
 - (i) it is identical with an earlier trademark, and the goods or services for which the trademark is sought registered are identical with the goods or services for which the earlier trademark is protected, or
 - (ii) there exists a likelihood of confusion including a likelihood of association with the earlier trademark, because the later trademark is identical with or similar to the earlier trademark and the goods or services are identical or similar.
- (2) For the purpose of subsection (1) earlier trademarks mean:
 - (i) marks of the following categories in respect of which the date of application for registration is earlier than the date of application for registration of the trademark, taking account, where appropriate, of the priorities claimed in respect of those marks:
 - (a) Community trademarks;
 - (b) Trademarks registered in this country, or
 - (c) Trademarks registered under international agreements and having effect in this country;
 - (ii) Community trademarks which claim seniority, in accordance with the Regulation on the Community trademark, in relation to a trademark referred to under (i)b) and c), even if the latter trademark has been surrendered or has lapsed;
 - (iii) Applications for trademarks referred to under (i) and (ii), subject to their registration;
 - (iv) Trademarks which, on the date of application for registration of the trademark, or, where appropriate, of the priority claimed in respect of the application for registration of the trademark, are well known in this country, in the sense in which the words "well known" are used in Article 6bis of the Paris Convention.
- (3) A trademark shall, furthermore, not be registered if:
 - (i) it is identical with or similar to an earlier Community trademark, cf. Subsection (2) and is sought registered for goods or services which are not similar to those for which the earlier Community trademark is registered, provided that the earlier Community trademark is well known in the European Union and the use of the later trademark will take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier Community trademark;
 - (ii) it is identical with or similar to a "well known" trademark, cf. Subsection (2) (iv), and is sought registered for goods or services which are not similar to those for which the earlier trademark is well known, provided that the use of the later trademark may lead to a likelihood

- of association between the marks, and the use will take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trademark, or
- (iii) it is identical with or only insignificantly distinct from a trademark, which at the date of filing of the application for registration or, where appropriate, of the priority claimed in respect of the application for registration, has commenced to be used in another country and is still in use there for goods or services which are identical with or similar to those for which the later trademark is sought registered, and the applicant at the date of the filing had, or should have had, knowledge of the foreign trademark.
- (4) A trademark shall moreover not be registered if:
 - (i) the trademark is identical with or similar to an earlier Danish trademark within the meaning of subsection (2) and is sought registered for goods or services which are not similar to those for which the earlier trademark is registered, where the earlier trademark is well known in this country and where the use of the later trademark would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trademark, or
 - (ii) in consequence of use in this country a right has been acquired to an identical or confusingly similar trademark or to another identical or confusingly similar sign used in the course of trade prior to the date of filing of the application for registration of the later trademark, or, where appropriate, of the priority claimed in respect of the application for registration of the later trademark, if the proprietor of the earlier right can prohibit the use of the later trademark.
- (5) A trademark shall not be excluded from registration pursuant to the provisions of subsections (1) to (4) where the proprietor of the earlier trademark or other earlier rights consents to the registration of the later trademark.

Processing of applications

Section 20

- (1) If the application does not comply with this Act or the provisions laid down pursuant to this Act, or if the Patent and Trademark Office has other objections to the acceptance of the application, the Patent and Trademark Office shall notify the applicant accordingly and invite him to file his observations within a specified time limit.

Opposition

Section 23

- (1) When the registration has been published, opposition may be filed against the validity of the registration. The opposition, which shall be reasoned, shall be filed with the Patent Office within two months from the date of publication. A fee, the amount of which shall be fixed by the Minister of Business and Industry, shall accompany the opposition.
- (2) If opposition has been filed, the Patent Office shall examine the registration in accordance with section 20. Section 28 (5) shall also apply during the examination. The proprietor of the registered right shall be notified of the opposition and be given an opportunity to submit his observations.
- (3) If the registration is maintained, the person having filed the opposition and the proprietor of the right shall be given notice hereof.
- (4) If the registration is declared void in part or in full, the decision to that effect shall be published when it is final.

Order on Application and Registration, etc. of Trade Marks and Collective Marks no. 364 of 21 May 2008

Section 2

(1) The application shall indicate:

(ii) the goods and/or services for which the registration of the mark is requested grouped in classes in compliance with the classification in the Nice Agreement of 1957 with subsequent amendments concerning international classification of goods and services for the purpose of registration of trade-marks...

Registerudskrift (Extract of Register)

Publiceret MP designering

(210) Sagsnummer : MP1096843

(800) Offentligg. dato : 2012-08-22
(800) Designeringsdato: 2011-02-09

(730) Indehaver : MIP METRO Group Intellectual Property GmbH & Co. KG
Metro-Strasse 1
40235 Düsseldorf
Tyskland

(740) National fuldm. : Sandel, Løje & Partnere Advokatpartnerselskab
(750) Adresse :

(540) Mærke :



(511) Klasser og varefortegnelse : Klasse 01: Chemical products used for industrial, scientific, photographic, agricultural, horticultural and forestry purposes; unprocessed artificial resins; unprocessed plastics; manures; chemicals for hardening and soldering metals; chemical product for preserving and stabilizing food; tanning material; industrial adhesives; native soil (humus); cultivated soils, peats (fertilizers); soil conditioners (chemical); unexposed films; de-icing salt; baking and cooking activators for industrial use; defoliants; repair and patching material (chemical); offset printing plates (light-sensitive); starch for industrial use; additives (chemical) for gasoline, oil and fuel; chemical sweeteners; chemical impregnation agents; chemicals for treatment of water and water-containers; antifreeze mixtures; varnish and lacquer solvents.

Klasse 02: Paints, varnishes, lacquers; rust preventatives, wood preservatives; colorants; mordants; raw natural resins; metals in powder form for use by painters, decorators, printers and artists; anti-corrosives; paint binders, fixatives (lacquer); thinners and thickeners for paints and lacquers; printing inks; toner (black); printing paste (tints); cement (natural resin); coloring matter for beverages and food; cosmetic coloring matter; metal coatings in this class.

Klasse 03: Cosmetic preparations; soaps; perfumery, essential oils, preparations for body and beauty care as well as for babies and small children; hair lotion; toothpaste; preparations for cleaning, care and beautification of hair, skin and teeth; oral care preparations; detergents; spot removers; fabric conditioners; scent spray (insofar as included in this class); scented wood, laundry scents; essential oils for food; aromatic substances, botanical (essential oils), essential essences and oils; depilatories; decalcifiers for household uses; cosmetic fats; polishing agents; smoothing agents (laundry glazing preparations); hair dyes; colouring preparations for cosmetic purposes; cosmetics; cosmetic toilet cases (filled); preparations for leather cleaning and care; oils and fats used for cleaning and care; perfume oils; shaving preparations; rust removers; cosmetic dyes; sunscreen preparations (cosmetic) starches (sizing agents); animal cosmetics; animal shampoos; greases for cosmetic use, absorbent cotton for cosmetic use; agents for cleaning and care of autos; impregnated or moist fabrics for personal hygiene; toilet cleaning agents; incense; cosmetic dye.

Klasse 04: Technical oils and fats; lubricants, dust wetting and binding agents; fuels (including motor fuels) and luminescent materials; candles and wicks for illumination use; waxes, dust removing preparations, oil preparations for non-stick coatings; fuel additives (non-chemical); dust removers; lighter fuel.

Klasse 05: Pharmaceutical and veterinary medicinal products as well as on homeopathic basis; hygienic preparations for medicinal use; chemical preparations and preparations for healthcare; absorbent cotton for medical use; dietetic food and food preparations for medicinal purposes; baby food as well as dietetic; medicinal herbs and herbal extracts; medicinal nutritional supplements, vitamin preparations; medicinal chewing gum; plaster and bandage material; tooth filling material and molding material for dental purposes; disinfection agents; pesticides; fungicides; herbicides; deodorizing room sprays; feminine hygiene articles, namely panty liners (toiletries) and tampons; diapers for incontinent.

Klasse 06: Base metals and alloys thereof; metal building materials; transportable metal buildings; metal railway track material; metal cables and wires (for non-electrical uses); ironmongery and small items of metal hardware; metal tubes and pipes; safes; metal and iron goods, not included in other classes; ores; metal foils for packaging uses; aluminum foils, metal containers; sheet metal; wire cables; steel roller shutters.

Klasse 07: Machines for industrial, handicraft, agricultural, horticultural and forestry purposes, for machinery, equipment and vehicles as well as for building technology and for hobbyists, machine tools; motors (except motors for land vehicles); couplings and transmission components (except those for land vehicles); not hand-operated agricultural, forestry and gardening equipment; agricultural, forestry and gardening machines; incubators for eggs; electrical cooking-, household- and cleaning appliances (insofar as included in this class); filtering machines; pumps (machines); power generators, pressure valves and regulators as machine components; electrical and pneumatic machines and tools for metal, wood and plastics processing, for the building industry, for the wood industry, for craftsmen and hobbyists, compressors (machines); welding equipment and machines; soldering devices and equipment (gas-operated); cleaning and lifting machines, sewing machines, knitting machines, ironing and laundry mangling machines; machine tables and bases; motors for use in the automatic operation of rolling shutters; lift machines; flush valve devices (machines); compressors (machines) and accessories, insofar as included in this class, sand blasters; mechanically operated cable- and pulley hoists; labeling machines; craftwork tools (not hand-operated); hydraulic drives; components and accessories for the aforementioned machines, devices and equipment (insofar as included in this class); electrical shearing machines; snow plows; dishwashers; snow plows; current generator; cleaning machines.

Klasse 08: Hand-operated tools for reaming, cleaning, polishing and lifting; cutlery, forks and spoons; cutting and stabbing weapons; shaving equipment and instruments; hand-operated devices and tools for industrial, craftwork, gardening and forestry purposes, for machinery, equipment and motor vehicles, as well as for building technology and hobbyists; blades; cutlery; beard clippers; devices and instruments, insofar as included in this class for pedicures and manicures; pedicure accessories; hand-operated sprayers; electrical pedicure and manicure accessories; electrical pedicure and manicure devices.

Klasse 09: Scientific, navigation, measurement, photographic, film, optical, weighing, measuring, signaling, control, rescue and teaching equipment and instruments; equipment and instruments for conducting, switching, transforming, storing, regulating and controlling electricity; devices for recording, transmission and reproduction of sound and images; magnetic recording carriers; phonograph records; vending machines and mechanisms for money-operated apparatuses; cash registers; calculators; instruments and devices for recording, transmitting, reception and reproduction of sound and/or images and/or electrically processed data (insofar as included in this class), also for mobile use and installation in motor vehicles; navigation devices; photographic, film and optical equipment and instruments; data recording media for storing information, data, images and sound (insofar as included in this class); recorded recording media; sound, music, image, video

and game data files (downloadable), particularly as Internet download; data processing devices and computers; copying devices and machines; electronic, magnetic and optical memory; electrical records with memory elements, all of the aforementioned items with and without information stored therein; microprocessors; peripheral devices for computers including accessories thereof, insofar as included in this class, computer hardware (software); electronic game consoles; electrical locks and bolts; maintenance devices as auxiliary equipment for television receivers or computers; computer programs und software; databank software; fire extinguishers; warning triangles; electric cables, wires, switches and distribution panels; batteries; tachometers; transformers; exposed films; accident-prevention clothing, including shoes; special clothing for rescue purposes, namely accident, radiation and fire prevention clothing items and shoes, face shields (safety masks for workers), pairs of goggles and face masks; diving suits, sports function eyeglasses; hard hats and crash helmets; electric irons; film welding machines; electric soldering equipment and welding devices, battery chargers; special containers and holders, which are specially adjusted to the aforementioned equipment and instruments; eyeglasses including sunglasses and parts thereof.

Klasse 10: Surgical, medical, dental and veterinary instruments and equipment, synthetic members, eyes and teeth; orthopedic articles; surgical suturing material; heating pads and covers for medical uses; devices related to health, in particular blood pressure devices, hearing aids, fever thermometers, inhalation devices, electroaccupuncture devices, massage devices, medical equipment for health gymnastics, stimulation current devices for medical uses, heating cushions, infrared radiation devices for medical uses; medical support cushions, pulse measuring devices, tooth polishers, condoms.

Klasse 11: Lighting, heating, steam generating, cooking, cooling, drying, ventilating and water-conducting devices as well as sanitary equipment; electrical devices for warming the body for non-medical purposes; washer-dryers; heat pumps, electric cooking devices, namely steamers, roasters, ovens, convection ovens, freezers, ice cream makers (ice machines and equipment) and yogurt preparers (electric); faucets and faucet valves; tanning devices; refrigerators; electric deep fat fryers; torches, light bulbs; grills (cooking devices); hair driers; lanterns, microwave devices, hot air generators (steam generators, except machine parts); air conditioners and installations, toasters; toilet seats; fans (air conditioning); bath tubs and showers as well as accessories thereof, insofar as included in this class; lights, search lights, lanterns, table lamps and accessories thereof, insofar as included in this class; ignition devices; coffee machines; water kettles; fluorescent tubes and lighting fixtures; hot water bottles; whirlpool baths; hot air equipment.

Klasse 12: Apparatus for transportation on land, in the air or on water; land and water vehicles, in particular trailers and boat trailers for cars, mopeds, scooters, motorcycles, bicycles (also with motor), kayaks, rowing and sailing boats, and snow tracked vehicles, wheelbarrows, garden barrows, rolling chairs, baby carriages, golf carts, hose carts and dinghies as well as components and accessories of the aforementioned land and water vehicles (insofar as included in this class); automobile and bicycle accessories, insofar as included in this class; luggage and cargo carriers for motor vehicles; wheel chairs and walkers.

Klasse 13: Firearms; munitions and missiles; explosives; fireworks; firecrackers; smoke signals; ammunition pockets; gunpowder; tear gas weapons; caps and detonator caps, except toys; fuses; self-defense sprays; gun components and accessories, insofar as included in this class; gun mounts and pods.

Klasse 14: Precious metals and alloys thereof as well as goods prepared therefrom or articles plated therewith, not included in other classes, in particular art and craft objects, ornaments and decorations of jet, watch bands, medals and medallions, jewelry, bijouterie, costume jewelry, gems and gemstones; clocks and other time measuring instruments as well as accessories and parts thereof, insofar as included in this class; key rings.

Klasse 15: Musical instruments.

Klasse 16: Paper, paperboard (cardboard) and goods made therefrom, insofar as they are not included in other classes; printed matter; book binding material; photographs; stationery; photo albums; adhesives for paper or stationery or for household uses; self-adhesive tapes for paper or stationery or for household uses; art supplies; artists brushes, typewriters and office equipment (except furniture); teaching and training aids (except equipment) ring binders; conference maps; writing sets, exercise books; synthetic packaging material, not included in other classes, in particular envelopes, bags and wrapping films; printing type; printing blocks; paper towels for household and hygienic uses; (insofar as included in this class) and paper diapers, respectively made from cellulose, fleece and flocculants; paper and synthetic packaging bags for preservation of foodstuffs; paper cases.

Klasse 17: Rubber, gutta-percha, gum, mica and goods made from these materials, not included in other classes; synthetic material (unfinished goods); sealing, packing and insulating material; tubes (non-metallic); synthetic unfinished foils, plates and rods for use in manufacture; asbestos, mica and articles thereof, namely fire prevention fabrics; flexible tubes (non-metallic); self-adhesive tapes, except for medical purposes, or for paper and stationery use or for household use.

Klasse 18: Leather and imitation leather and goods made therefrom, not included in other classes, in particular pouches, bags, sacks and small leather goods; skins and furs; suitcases and valises; umbrellas; parasols and canes; whips, harnesses and saddlery; packing sacks for luggage; backpacks; document cases.

Klasse 19: Building materials (non-metallic), in particular partially prepared wood as well as beams, boards and plates, plywood, building glass, tiles and window glass, except glass for vehicle windows; pipes (non-metallic) building uses; asphalt, pitch and bitumen; transportable buildings (non-metallic), in particular prefabricated garages, garden sheds, storage sheds; monuments (non-metallic); pavilion buildings, non-metallic.

Klasse 20: Furniture, mirrors, picture frames; goods not included in other classes, made from wood, cork, reeds, bulrush, willow, horn, bone, ivory, tortoise shell, amber, mother-of-pearl, meerschaum and materials substituted therefor or from synthetics; camping furniture, bedding (except for bed linens); mattresses; pillows; sleeping bags for camping use; blinds.

Klasse 21: Devices and containers for the household and cooking; combs and sponges; brushes; brush-making material; cleaning utensils; steel wool; raw or partially prepared glass (except for building glass); glassware; porcelain and earthenware, insofar as they are included in this class; hand-operated home and cooking devices as well as portable containers for the household and cooking (insofar as included in this class) electric combs, toothbrushes and dental floss; sprinklers; cooking pot sets (also made from metal) in particular pots, pans and cauldrons; buckets; glass articles; porcelain and stoneware for the household and cooking; rodent and insect traps; gloves for the household and garden; watering cans; glass for vehicle windows (semi-finished product); glass with embedded, thin electrical conductors; heat-insulated containers and vessels; food cooling devices, containing heat exchange fluids, for household purposes; cooking containers and devices; works of art of porcelain, clay, glass, stoneware, glass and similar ceramic material; paper holders and plastic containers; toiletry utensils; paper towel dispensers; cleaning, polishing devices (hand-operated); signboards of porcelain or glass; toiletry kits; microwave tableware; room aquariums and terrariums and covers thereof; dinner servers and centerpieces (except for cutlery); napkin rings, cooking pots; water apparatus for cleaning teeth and gums; cleaning instruments (hand operated); brushes (except paint brushes); table cutlery and dishes made from plastics.

Klasse 22: Ropes, strings, nets, tents, tarpaulins, sails, bags, bindings, belts (not included in other classes); padding and stuffing materials (except from rubber or synthetics); raw spun fibers; packaging bags of textile material; car towing ropes; down (feathers); straw wrappers for bottles; hemp; hammocks; wood wool; jute; synthetic textile fibers; awnings of textile material and synthetic material; upholstery wool; bags for the transport and storage

of materials in bulk; sisal; rope ladders; textile fibers; packing rope; wool (raw or processed); binding thread, non-metallic, for agricultural purposes; pavilion tents; windbreaks and ribbons for gift wrapping and decoration of textile.

Klasse 23: Yarn and thread for textile use, in particular cotton threads, cotton yarn, chenille (thread) elastic threads and threads for textile use; fiberglass thread for textile use; rubber thread for textile use; hemp thread; jute thread; coir thread and yarn; rayon thread and yarn, threads of plastic materials for textile use; linen thread and yarn; sewing yarn, silk (spun), silk yarn, embroidery thread, darning thread, weaving thread, wool (spun), wool yarn.

Klasse 24: Woven fabric and textile goods, not included in other classes; bed and table covers; textile materials; curtains; household linen; table linens, not of paper or of bed linen; textile furniture covering material; decorative textile materials; bed coverings; sheets (textile); bath linens, except clothing; curtains of textiles or synthetics; bedding and bed linen; mosquito nets; table napkins of textile; oil cloths (tablecloth); blinds (rollable curtains) made from textiles or synthetic materials.

Klasse 25: Clothing, shoe wear, headgear for wear; outerwear and underwear for women, men, children and infants including sport and functional clothing; underwear; nightwear; swimwear; bath robes; belts; collar protections; accessories, namely head scarfs, scarves, shawls, pocket squares; neckties; gloves; shoes and boots; hosiery.

Klasse 26: Lace and embroidery, ribbons and braids, buttons, hooks and eyes, pins and needles; artificial flowers; cords; trimmings for clothing; badges (insofar as included in this class); hair ornaments; barrettes; toupees; trouser clips; haberdashery (except thread); sewing boxes; embroidery.

Klasse 27: Carpets, foot mats, mats, linoleum and other floor coverings of rubber, synthetic or textile material, in particular carpeted floors, carpet tiles, bridgework (carpets) and runners, tapestry (not of textile material).

Klasse 28: Toys; playing cards; games, in particular electric und electronic games (including video games), except as supplemental devices for television receivers; gymnastic and sports equipment, insofar as included in this class; coin-operated automatic games (machines); sports equipment accessories (insofar as included in this class); sports equipment (insofar as included in this class); Christmas tree ornaments (except lighting devices and decorative confectionaries) Christmas trees of synthetic material; Christmas tree holders; playing cards.

Klasse 29: Meat, fish, poultry and game; shellfish, not alive; seafood (shellfish, not alive); the aforementioned goods, also prepared; meat extracts; preserved, frozen, dried and cooked fruit and vegetables; leguminous plants (processed); gelatins (jellies); jams and marmalades; sweet spreads; stewed fruit; eggs, milk and milk products; butter; yogurt; curds; cream; powdered milk; alcohol-free milk mixed-beverages; cooking oil; fruit and vegetable puree; processed potato products for nutrition, insofar as included in this class; cheese; cheese preparations; prepared foods consisting essentially of meat, fish, shellfish, poultry, game, prepared fruit or vegetables (also deep-frozen); yogurt desserts, curds or cream; goods of game, charcuterie, meat, poultry, and fish as well as salads; instant, ready-made and semi-finished prepared and service-ready meat, fish, vegetables, fruit; soups and soup preparations; caviar; coffee creams; nuts and other snack goods (insofar as included in this class); dietetic products not for medical purposes based on proteins and foodstuffs for reduced food and/or calorie-controlled non-medical diets based on proteins; all of the aforementioned goods also deep-frozen, preserved, sterilized or homogenized (if possible).

Klasse 30: Coffee and coffee products, tea and tea products, cocoa and cocoa products; sugar, rice, tapioca, sago, coffee substitutes; flour und cereal preparations also in the form of mixtures and other preparations; bread, pastries and confectionaries; ice cream; honey; marzipan; nougat; molasses syrup; wheat; baking powder, salt; mustard; vinegar; sauces

(condiments); spices and spice mixtures; ice for refreshment; salad dressing; mayonnaise; coffee and tea substitutes; pasta; chocolate and chocolate products; pralines, also with liquid filling; confectionaries; bonbons; food flavorings (except essential oils); pasta and noodles, as well as products made predominately with these; meat pies; ketchup; pizza; cereals (cereal preparations).

Klasse 31: Land, garden and forestry products as well as grains, not included in other classes; live animals; fresh fruits and vegetables; seeds, living plants and natural flowers; malt; flower bulbs; dried plants, mulch and peat litter, animal bedding; animal feed; algae for human or animal nutrition; fish spawn, living crustaceans and shellfish; edible fresh flowers.

Klasse 32: Beers, mineral water and sparkling water and other non-alcoholic beverages; fruit juice beverages and fruit juices; syrups and other preparations used to prepare beverages; effervescent for beverages; peanut milk (alcohol-free); essences for the preparation of beverages; fruit nectars and extracts; vegetable juices (beverages); isotonic beverages; lemonades; lemonade syrups; lithium water; malt beer; milk of almonds; whey beverages; cider (unfermented); preparations used to prepare liquors; seltzer water; soda water; sorbets (beverages); water (beverages) products used to manufacture carbonated water, products used to manufacture mineral water; non-alcoholic honey beverages.

Klasse 33: Alcoholic beverages (except beer), in particular wine, brandy, spirits and liquors; alcoholic essences; alcoholic extracts; mead; rice alcohol; alcohol-containing milk beverages with predominant milk portion; fruit brandy; wines protected by the appellation of origin Champagne; sparkling wine.

Klasse 34: Tobacco; tobacco products, smokers' articles, in particular tobacco jars, cigar and cigarette tips, cigar and cigarette cases, ashtrays (insofar as included in this class), pipe racks, pipe cleaners, cigar cutters, tobacco pipes, pocket devices for rolling your own cigarettes, cigarette paper, cigarette filters, gas cartridges for lighters, tobacco pouches, water pipes, matches; cigars and/or cigarette cases and tips.

Klasse 35: *

Klasse 36: Finance, financial transactions and financial services, in particular credit procurement and granting of credit for general and individual commerce, leasing and lease procurement; insurance; procurement of insurance; procurement of financial means for investments in undertakings (credit arrangement), constructions and institutions; related financial consulting, real estate; rental and leasing of real estate; asset management; financial consulting, also for franchise concepts; pension fund services; facility management, in particular the development of use concepts for real estate; financial analyses; property management.

Klasse 37: Repairing machines, electric and electronic devices; installation work; demolition work, maintenance and cleaning work in domestic areas (caretaking services); insect and pest eradication, except for agricultural purposes; rental of construction equipment and cleaning machines; installation and maintenance of hardware for Internet access; building construction.

Klasse 38: Telecommunication, in particular supplying commercial platforms on the Internet for products and commercial services of all types, the supplying of terms on a computer network, of information on the Internet, of Internet accesses, of telecommunication connections to a computer network, of platforms and portals on the Internet and Intranet, preparation of telecommunication channels, teleshopping-services, e-mail-services; forwarding and collection of messages of all types to and from Internet addresses (web-messaging); information via telecommunication; electronic display mediation (telecommunication); conduction, routing and connecting services for telecommunication; mobile phone services, press agent services; collection and delivery of messages and/or press releases of all types (press agents); rental of telephone-, radio-, radiotelephone-, fax equipment, modems.

Klasse 39: Packaging and storage of packages and/or goods; collection, dispatch and delivery of products of packages and/or goods; transportation of packages and/or goods with vehicles, ships, aircraft; logistical services on the transport sector (insofar as included in this class) in particular recording of orders, storage and contract logistics, procurement logistics, distribution logistics and returns logistics (inventory management) also based on radio-frequency identification (RFID); shipping services (except customs clearance of goods for third parties); services of a freight broker; services of a hauling contracting firm (conveyance of goods), except the customs clearance of goods for third parties; services of a transport broker; tracking and tracing also through electronic location determination of the goods and commodities; organization of travels; travel accompaniment; travel reservations and bookings; cruises, sightseeing; rental of parking spots, vehicles, boats; rental of storage containers; franking of mailings; traffic information.

Klasse 40: Material processing, in particular printing work, development of photographic films, production of photographic prints, film processing (also digital), trash and waste recycling, incineration and destruction of trash and waste, tailoring, namely repair and improvement work on clothing, forging and locksmithery; surface treatments, namely surface refining via material processing.

Klasse 41: Education; training; entertainment; sports and cultural activities; operation of educational, training, cultural, sport exhibition, and entertainment sites; organization and management of scientific, cultural and sport events; organization and implementation of exhibitions for cultural or educational purposes, educational and training meetings; rental of printing products, image and/or sound carriers, audio and video devices, projection equipment and accessories, insofar as included in this class; publication of printed matter and of electronic media, including on data carriers (except for advertising purposes); production of radio and television programs; distributing and editing of radio and television programs also provided over the Internet; film and video production, film and video rental; film and video presentations; artists' services, namely entertainer services; ticket agencies, reservations and bookings; game services offered online; operation of swimming pools.

Klasse 42: Scientific and technological services and research work and related designer services; industrial analysis and research services; planning and development of computer hardware and software; consulting for EDP and telecommunications technology; data protection; data storage; development, design, equipping, installation and maintenance of computer software, computer systems and web-sites; services of an EDP-programmer; investigations, databank and Internet searches for third parties; rental and maintenance of disk space, computer software, computer hardware, data processing devices, web-servers; services of a certification office; research and development services relating to new products (for third parties); construction planning, electronic data storage; testing of materials; quality testing; city planning; technical project planning; environmental consulting; weather forecasting; architectural, graphic and design services; drawing up of technical expert opinions; installation and maintenance of software for Internet access; construction drafting.

Klasse 43: Services for providing food and lodging to guests, rental of chairs, tables, table linen, glasses; rental of transportable buildings and tents.

Klasse 44: Medical services; veterinary medical services; health and cosmetic treatment for humans and animals; services in the area of land, gardening and forestry, operation of baths, saunas; telemedical services; consulting services in the areas of health, cosmetics, nursing and care for the elderly; medical consulting in conjunction with the implementation of measures for workplace health promotion.

Klasse 45: Legal services; safeguarding services for protection of material assets or persons; personal and social services rendered by third parties relating to individual necessities; advisory services relating to security; clothing rental; rental of fire extinguishers and/or fire alarms; baggage inspection for security purposes; licensing of intellectual property; allocation and registration of domain names; provision of legal advice and

representation; administration of intellectual property rights; awarding licenses for intellectual property rights.

(591) Farvetekst :

(800) Int. reg. dato : 2011-02-09

(800) Gazettenr : 46/2011

Udskrift slut
(End of Extract)

Sandel, Løje & Partnere Advokatpartnerselskab
Øster Allé 42 6
2100 København Ø

Vores reference: MP1158265
Din reference:: OT2798DK00
Indehaver: Albis Technologies AG
CVR-/P-nummer
Frist: 30. juli 2014

30. januar 2014

**Indsigelse mod gyldighed i Danmark af den internationale registrering MP1158265
MetroIntegrator**

Vi har modtaget dit brev af 26. november 2013, og kan oplyse, at vi venter med at behandle sagen, som du har bedt om, da der er nedlagt indsigelse mod indsigers mærke her i Danmark.

Hvis du har spørgsmål til sagen, er du velkommen til at kontakte mig.

Venlig hilsen

Helle Balthervin
Sagsbehandler, Varemærke/Design

Direkte tlf. 4350 8594

Fra: - PVS Patent- og Varemærkestyrelsens officielle postkasse
Sendt: 27. november 2013 08:03
Til: 3 - PVS Voprettelsen nye sager
Emne: VS: Indsigelse mod foreløbig designering af MP1158265 MetroIntegrator, Vores ref: ref: OT2798DK00 TME/BBR/DGN
Vedhæftede filer: 2929_001.pdf

Fra: Dorte Garde Nielsen [mailto:dgn@sandel.dk]
Sendt: 26. november 2013 16:03
Til: - PVS Patent- og Varemærkestyrelsens officielle postkasse
Cc: Tanya Meedom
Emne: Indsigelse mod foreløbig designering af MP1158265 MetroIntegrator, Vores ref: ref: OT2798DK00 TME/BBR/DGN

Se venligst vedhæftede brev.

Venlig hilsen
Dorte Garde Nielsen
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Denne mail er blevet scannet af <http://www.comendo.com> og indeholder ikke virus!



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Johan Løje (H), LL.M.
Susie P. Arnesen (L)
Tanya Meedom

European Trademark Attorneys

København, den 26. november 2013

Indsigelse mod foreløbig designering af MP1158265

MetroIntegrator (ord)

Indehaver: Albis Technologies AG

Indsiger: MIP METRO Group Intellectual Property GmbH & Co. KG

Vores ref: OT2798DK00 /BBR/DGN

På vegne af MIP METRO Group Intellectual Property GmbH & Co. KG, Metro-Strasse 1
D-40235 Düsseldorf, Tyskland,

nedlægger vi i medfør af varemærkelovens § 23

INDSIGELSE

mod endelig designering af MP1158265 **MetroIntegrator** (ord), som har været bekendtgjort i Varemærketidende den 13. november 2013.

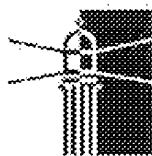
Til støtte for indsigelsen gøres det gældende, at det foreløbigt designerede varemærke frembyder risiko for forveksling med indsigers ældre rettigheder i henhold til designering af Danmark under International Registrering MP1096843 **METRO** for bl.a. varer og tjenesteydelser i klasse 9, 38 og 42, jf. varemærkelovens § 15.

Som begrundelse anføres foreløbigt, at der foreligger åbenbar risiko for forveksling, herunder for antagelse af en forbindelse, mellem indsigers nævnte designering af figurmærket **METRO** og det foreløbigt registrerede mærke **MetroIntegrator** for de dækkede helt identiske eller meget ligeartede varer og tjenesteydelser i klasse 9, 38 og 42.

For så vidt angår mærkeligheden er det indsigers opfattelse, at der er tale om en meget høj grad af lighed såvel visuelt, fonetisk som konceptuelt, og navnlig begrundet i følgende:

Det foreløbigt designerede mærke indeholder det identiske ordelement "METRO" i sin fuldstændighed, som det indledende, dominerende og dertil eneste (eller overvejende) særprægede ordelement. Elementet Metro fremtræder dertil i en vis grad isoleret som ord, i og med den efterfølgende brug af stort forbogstav i suffikset, Integrator (MetroIntegrator).

SANDEL, LØJE & PARTNERE



Det understreges, at det fælles og dominerende ordelement METRO har ganske udmærket særpræg for varer og tjenesteydelser i klasse 9, 38 og 42.

Det tilføjede ordelement "Integrator" må derimod anses for direkte beskrivende og dermed svagt for de omfattede varer og tjenesteydelser, der alle har eller kan have forbindelse til transmission og distribution af data og/eller telekommunikation og/eller software/brug af software.


Ordet "Integrator" henviser således til en ting eller person, der integrerer, dvs. forbinder eller sammenkobler noget, med noget andet, og ses ofte brugt i forbindelse med f.eks. elektroniske kredsløb ("integreret kredsløb"). Det af den foreløbige designering omfattede software, kommunikationsudstyr, transmissionsudstyr m.v. i klasse 9, er netop varer, der kan have til formål at "integrere" i betydningen forbinde/sammenkoble noget med noget andet (oplysninger, data, udstyr m.v. Det gælder tilsvarende for "telekommunikation" som ydelse i klasse 38, at formålet er at forbinde/sammenkoble noget med noget andet (personer, information, data m.v.).

For de omfattede ydelser i klasse 42 gælder, at de alle er udtrykkeligt relateret til kommunikations/transmissions-udstyr og visse tillige til software, hvormed ordet "Integrator" af ovenstående grunde, ligeledes er beskrivende/svagt for samtlige omfattede ydelser i klasse 42.

Det foreligger herefter en meget høj grad af mærkelighed, såvel visuelt, fonetisk som konceptuelt, og mærkerne fremtræder overordnet i høj grad lignende, hvorved det må anses for helt nærliggende, at den relevante kundekreds vil forveksle mærkerne, eller i hvert fald fejlagtigt antage, at der måtte være en kommerciel forbindelse imellem mærkerne for helt identiske eller meget lignende varer og tjenesteydelser.

Vedrørende vare/tjenesteligheden anføres, at det gælder for samtlige varer og tjenesteydelser omfattet af det foreløbigt designede mærke i klasse 9, 38 og 42, at der foreligger fuldstændig identitet eller meget høj grad af lighed, med de varer/tjenester, som er omfattet af indsigers mærke i klasse 9, 38 og 42.

Der henvises nærmere til følgende sammenstilling af de identiske vare/tjenestebegreber for de respektive mærker:

MP1158265 MetroIntegrator (ord): **MP1096843** 

Klasse 9:

"software"

≈

Klasse 9:

"computer programs and software"

"equipment for data processing"

≈

"data processing devices and computers"

"communication devices for cable or wireless or optical transmission of data or messages, including apparatus for processing signals and data and for the input, output and display of data in modules, devices for the transmission and distribution of data"

≈

"devices for..transmission..of sound and images";
"instruments and devices for..transmitting..of sound and/or images and/or electronically processed data"



"management systems for configuration, operation and monitoring of the aforementioned facilities, equipment and modules"

Klasse 38:

"telecommunication"

"..measuring, signaling, control..equipment and instruments", "computer programs and software", "data processing devices and computers", "computer hardware (software)",

Klasse 38:

"telecommunication..."

Klasse 42:

"Technical consultancy in the field of communication equipment for the wired or wireless or optical transmission of data and information"

Klasse 42:

"scientific and technological services..", "consulting for EDP and telecommunication technology", "..equipping, installation and maintenance of computer systems", "..maintenance of..computer hardware, data processing devices, web-servers", "technical project planning", "drawing up technical expert opinions",

"development, creation, updating and installation of software for communication equipment"

"scientific and technological services and research work and related designer services", "planning and development of computer .. software", "development, design..installation and maintenance of computer software, computer systems and web-sites", "services of an EDP-programmer", "...maintenance of..computer software..", "installation and maintenance of software for Internet access"

- * -

Idet der for tiden verserer indsigelse mod indsigers danske designering af International Registrering MP1096843, går indsiger ud fra, at nærværende indsigelsessag vil blive stillet i bero på afgørelsen af indsigelsessagen mod MP1096843.

Med henvisning hertil anmoder indsiger om lejlighed til at supplere indsigelsesbegrundelsen, når indsigelsessagen mod MP1096843 har fundet sin afslutning.

Gebynet for indsigelsen, kr. 2.500 følger.

Med venlig hilsen
Sandel, Løje & Partnere

Tanya Meedom / Bettina Brandt
e-mail: tme@sandel.dk / bbr@sandel.dk

SANDEL, LØJE & PARTNERE