



**MADRID AGREEMENT CONCERNING
THE INTERNATIONAL REGISTRATION OF MARKS
AND PROTOCOL RELATING TO THAT AGREEMENT
PROVISIONAL REFUSAL OF PROTECTION**

Notified to the World Intellectual Property Organisation (WIPO)
according to Article 5 of the Madrid Agreement and Madrid Protocol

I. Office making the notification of refusal PATENT OFFICE OF THE REPUBLIC OF LATVIA 7/70, Citadeles iela LV 1010, Rīga LATVIA		Phone 371 67099604 Fax 371 67099650
II. Number of the international registration which is the subject of refusal		1 249 287
III. Name of the holder of the international registration concerning the subject of refusal Philip Morris Products S.A. Quai Jeanrenaud 3 CH-2000 Neuchâtel (CH)		
IV. The grounds of refusal: Opposition submitted by British American Tobacco (Brands) Limited, Globe House, 4 Temple Place, London WC2R 2PG (GB) , holder of CTM 009505348 /CLICK / and WO 1108191 /CLICK ON/.		
V. Reference to the corresponding essential provisions of the law of the Republic of Latvia On Trademarks and Indications of Geographical Origin. (see materials attached) SECTION. 18, 39. Opposition has based on Section 7. (1) 2).		
VI. <input checked="" type="checkbox"/> Refusal for all the goods and services. <input type="checkbox"/> Refusal for the following goods and services:		
VII. Possibilities to review or appeal The holder has the right, within three months from the date of receipt of decision, to submit a substantiated appeal to the Patent Office through a professional local patent attorney. After expiration of the said period the Board of Appeal shall take a decision to satisfy the opposition, fully or in part, or to dismiss it. The decision of the Board of Appeal can be appealed, within three months from the date of receipt of the copy of the decision, to the Administrative District Court		
VIII. Date on which the refusal was pronounced		25.08.2015 
IX. Signature and seal of the office making the notification of refusal Head of the Division of International Marks		Līga Rinka 

Text consolidated by Valsts valodas centrs (State Language Centre) with amending laws of:

8 November 2001;

21 October 2004;

8 February 2007;

14 October 2010.

If a whole or part of a section has been amended, the date of the amending law appears in square brackets at the end of the section. If a whole section, paragraph or clause has been deleted, the date of the deletion appears in square brackets beside the deleted section, paragraph or clause.

The *Saeima*¹ has adopted and the President has proclaimed the following law:

Extracts of the Law on Trade Marks and Indications of Geographical Origin

Section 7. Earlier Trade Marks as Grounds for Invalidation of Trade Mark Registration

(1) A trade mark registration may be declared invalid pursuant to the provisions of this Law in the following cases:

1) it is identical to an earlier trade mark, and the goods or services in respect of which the trade mark was registered are identical to the goods or services in respect of which the earlier trade mark was registered; or

2) in connection with its identity or similarity to, an earlier trade mark belonging to another person and the identity or similarity of the respective goods or services, there exists a likelihood of confusion of the trade marks or a likelihood of association between the trade marks on behalf of the relevant consumers.

(2) Earlier trade marks within the meaning of Paragraph one of this Section are:

1) trade marks valid in Latvia, which have been registered under national or international registration procedures, or as European Community trade marks (hereinafter – Community trade mark) in accordance with Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (codified version) (Text with EEA relevance) (hereinafter – Council Regulation No 207/2009) if the date of application for registration thereof is earlier than the date of application for registration of the opposed trade mark, also taking into account the priorities accorded to those trade marks; and

2) applications for the registration of trade marks referred to in the previous Clause, provided that they are registered.

Section 18. Opposition to the Registration of a Trade Mark

(1) Within three months from the date of the publication of a trade mark, interested persons may, upon payment of the applicable fee, submit an opposition to the registration of a trade mark. The opposition shall be filed with the Board of Appeals in writing, substantiated by appropriate arguments and references to provisions of law. After the expiration of the previously mentioned term, the opponent does not have the right to change (expand) the initial legal basis of the opposition, but may, up until the decision of the Board of Appeals is taken, submit additional documents and materials, that confirm (detail) the facts on which the opposition is based.

Section 39. Validity of an International Registration in Latvia

(1) An international registration of a trade mark that has, pursuant to the prescribed procedure, entered into effect in Latvia, shall have the same effect as trade marks that have been entered into the Register pursuant to the procedures specified in this Law (registered with the Patent Office pursuant to national procedures).

Section 39.¹ Activities of the Patent Office in Connection with the Registration Procedure of the Community Trade Mark

(1) The functions of the central industrial property office of a Member State, prescribed by Council Regulation No 207/2009 shall be executed in Latvia by the Patent Office. Registration of the Community trade mark may be applied for through the intermediary of the Patent Office.

(2) The Patent Office shall perform the verification of the authenticity of the decision of the Office for Harmonisation in the Internal Market (trade marks and designs) provided for in Article 86 (2) of Council Regulation No 207/2009 for the enforcement thereof in Latvia.

[21 October 2004; 14 October 2010]

Section 39.² Legal Effect of the Community Trade Mark Registration in Latvia

(1) Exclusive rights to a trade mark in Latvia shall also be ensured by the Community trade mark registration. The scope of protection of the Community trade mark shall be determined by Council Regulation No 207/2009.

Section 39.³ Additional Provisions for the Protection of the Community Trade Mark

(1) An opposition to the registration of a trade mark (Section 18) and the claim for invalidation of the registration of a trade mark (Section 31) apart from the earlier rights provided for in Sections 7, 8 and 9 of this Law may also be justified with an earlier identical or similar Community trade mark, which has a good reputation in the European Community and which is registered for goods or services which are not similar to those goods and services, which have a trade mark registered later (contested), but on condition that the use of the later trade mark without due cause takes unfair advantage of, or is detrimental to the distinctive character or the reputation of the Community trade mark or that such use of the later trade mark may be seen by consumers as a sign of connection between these goods and services and the owner of the referred to Community trade mark and such use may be detrimental to the interests of the owner of the Community trade mark. Such opposition and such claim may be submitted by the owner of the Community trade mark (or his or her successor in title) or his or her representative.

(2) In case of the illegal use of the Community Trade mark, the provisions of Sections 27 and 28 of this Law, the Civil Procedure Law and the provisions of other regulatory enactments shall be applicable, unless otherwise specified by Council Regulation No 207/2009.

(3) If, based on the rights arising from the registration of the Community trade mark, the registration of a later trade mark is contested, which is performed observing the procedures for the registration of trade marks specified by this Law, or in accordance with the rules on the international registration and is extended to Latvia, or if the use of such later trade mark is contested, the provisions of Section 29 of this Law regarding the restrictions of rights as a result of acquiescence shall be observed.

[21 October 2004; 14 October 2010]