



REPUBLIC OF SLOVENIA
MINISTRY OF ECONOMIC DEVELOPMENT AND TECHNOLOGY
SLOVENIAN INTELLECTUAL PROPERTY OFFICE

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Ref.: 31212-1465/2015-5

105SP(434)

Date: 14.04.2016

MADRID AGREEMENT AND PROTOCOL
PROVISIONAL REFUSAL OF PROTECTION
Rule 17(1)

I.	Office making the notification: Slovenian Intellectual Property Office Kotnikova 6 SI-1000 Ljubljana Slovenia
II.	Number of the international registration: 1281232
III.	Name of the holder: SWATCH AG (SWATCH SA)(SWATCH LTD.), Jakob-Stämpfli-Strasse 94 CH-2502 Biel/Bienne, CH
IV.	Provisional refusal based on an opposition filed by: Apple Inc. Infinite Loop,,95014-2084 Cupertino; California,US Representative of the opponent: Patentna pisarna d.o.o.,Čopova 14,p.p. 1725,Slovenija
V.	Provisional refusal for all the goods and/or services requested
VI.	Grounds for refusal (the relevant provisions of the Slovenian Trademark Act are under XI): 44 (1) c, d

VII. Information relating to an earlier mark/or marks of the opponent

- i) Unregistered trademark "ONE MORE THING"

VIII. Information relating to subsequent procedure:

- (i) Time limit for requesting review:

The holder of the registration may request a review of the provisional refusal. The Slovenian Office must receive the request no later than 3 months* from the date of this provisional refusal (the time limit starts from the date indicated under point X). After a period the Office will issuing its final decision.

*with the written request the deadline may be extended for 3 months

- (ii) Authority to which such request for review or appeal should be made:

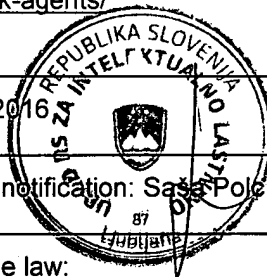
Office indicated under I

- (iii) Indications concerning the appointment of a representative:

The request for the review must be filed through the intermediary of a representative domiciled in Slovenia. The list of trademark agents is available on <http://www.uil-sipo.si/sipo/addition/resources/patent-and-trademark-agents/>

IX. Date of the notification of provisional refusal: 14.04.2016

X. Signature or official seal of the Office making the notification: Sasa Pole



XII. Corresponding essential provisions of the applicable law:

Article 43

Absolute grounds for refusal

- (1) A sign shall not be eligible for registration as a mark if:

- (a) it cannot constitute a mark;
- (b) it is devoid of any distinctive character;
- (c) it serves, in trade, to designate merely the kind, quality, quantity, intended purpose, value, geographical origin, or the time of production of the goods or of rendering of the service, or other characteristics of the goods or services;
- (d) it contains or consists of a geographical indication identifying wines or spirits, where the mark application relates to wines or spirits not having this origin;
- (e) it consists exclusively of signs or indications which have become customary in the current language or in the bona fide and established practices of the trade;
- (f) it consists exclusively of the shape which results from the nature of the goods themselves or is necessary to obtain a technical result or gives substantial value to the goods;
- (g) it is contrary to public order or morality;
- (h) it deceives the public, in particular to the nature, quality or geographical origin of the

- goods or services;
 - (i) it contains official signs or hallmarks for controlling or guaranteeing the quality of goods, or imitations thereof;
 - (j) it has not been authorized by the competent authorities and should be refused pursuant to Article 6ter of the Paris Convention;
 - (k) it includes or imitates badges, emblems or escutcheons other than those covered by Article 6ter of the Paris Convention and which are of particular public interest, unless the consent of the competent authorities to its registration has been given;
 - (l) it contains or consists of a designation of origin or a geographical indication registered in accordance with the Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (OJ L 208/92, p. 1), provided that the circumstances referred to in Article 13 of that Regulation exist and the sign does not relate to the same sort of product, and provided that the mark application has been filed after the date of filing of the application for the registration of a designation of origin or a geographical indication with the Commission.
- (2) Paragraph 1(b), (c) and (e) shall not apply to marks which acquired a distinctive character through long-term use.
- (3) A sign which is ineligible for registration because it contains the name or abbreviation of the name, State armorial bearing, emblem, flag or other official sign of the Republic of Slovenia, or a part thereof, which is in breach of the provisions of paragraph (1)(j) and (k), shall not be used in the course of trade without the consent of the Government of the Republic of Slovenia.

Article 44

Relative grounds for refusal

- (1) Further, a sign shall not be eligible for registration as a mark if:
- (a) it is identical with an earlier mark of another owner, and the goods or services for which the registration is applied for are identical with the goods or services for which the earlier mark is registered;
 - (b) because of its identity with or similarity to the earlier mark of another owner and the identity or similarity of the goods or services covered by the sign and the mark there exist the likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier mark;
 - (c) because of its identity with or similarity to an earlier mark of another owner, registered for goods or services which are not identical with or similar to the goods or services for which the registration has been applied for, the use without due cause of such sign would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier mark, or if it would indicate a connection between the goods or services and the owner of the earlier mark, and provided that the interests of the owner of the earlier mark are likely to be damaged by such use;
 - (d) it is identical with or similar to a mark or unregistered sign, which is in the Republic of Slovenia a well-known mark within the meaning of Article 6bis of the Paris Convention or Article 16(3) of the TRIPS Agreement;
 - (e) the owner of the mark registered in any Member State of the Union established under the Paris Convention, hereinafter referred to as "the Paris Union", or the World Trade Organisation, hereinafter referred to as "the WTO", proves that his agent or representative applied, without the owner's consent, for the registration of the sign in his own name;
 - (f) its use would contradict an earlier right to a name, personal portrayal, plant variety, geographical indication or other industrial property right, or an earlier copyright, unless the owner of the earlier right gives his express consent to the registration of such sign.
- (2) "Earlier mark" within the meaning of paragraph (1) means:
- (a) mark which was applied for or registered in the Republic of Slovenia on the basis of a national application before the date of filing of the application for the later mark or, if priority is claimed, the date of priority;
 - (b) mark for which the protection was sought in the Republic of Slovenia on the basis of an international application before the date of filing of the application for the later mark or, if priority is claimed, the date of priority.