

X. (Title and date of the applicable national law)

Extract from the Trade Mark Law version of 31 July 2009

Absolute Grounds for Refusal

8. - (1) Signs that are capable of being protected as a trade mark within the meaning of Section 3, but not capable of being represented graphically, shall not be registered.

(2) The following shall not be registered:

1. trade marks which are devoid of any distinctive character with respect to the goods or services;
2. 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 the rendering of the services, or to designate other characteristics of the goods or services;
3. trade marks which consist exclusively of signs or indications which have become customary in the current language or in the bona-fide and established practices of the trade for designating goods or services;
4. trade marks which are of such a nature as to deceive the public, in particular, as to the nature, quality or geographical origin of the goods or services;
5. trade marks which are contrary to public policy or to accepted principles of morality;
6. trade marks which include armorial bearings, flags or other emblems of State, or armorial bearings of a locality, an association of communities or an association of other communal entities within the country;
7. trade marks which include official signs and hallmarks, indicating control and warranty, which, according to a notice published by the Federal Ministry of Justice in the Federal Law Gazette [*Bundesgesetzblatt*], cannot be validly registered as trade marks;
8. trade marks which include armorial bearings, flags or other signs, seals, or designations, of international intergovernmental organisations which, according to a notice published by the Federal Ministry of Justice in the Federal Law Gazette, cannot be validly registered as trade marks;
9. trade marks the use of which can obviously be prohibited pursuant to other provisions in the public interest; or
10. trade marks which have been filed in bad faith.

(3) Subsection (2), Nos. 1, 2 and 3, shall not apply if the trade mark has, before the date of the decision on registration and following the use which has been made of it, established itself in affected trade circles as the distinguishing sign for the goods or services for which it has been filed.

(4) Subsection (2), Nos. 6, 7 and 8, shall also apply if the trade mark includes the imitation of a sign specified therein. Subsection (2), Nos. 6, 7 and 8, shall not apply where the applicant is authorised to include one of the signs specified therein in his trade mark even if it may be confused with another of the signs specified therein. Furthermore, subsection (2), No. 7, shall not apply where the goods or services for which the application for registration of the trade mark has been filed are neither identical with nor similar to those for which the sign or hallmark, indicating control or warranty, has been introduced. Furthermore, subsection (2), No. 8, shall not apply where the trade mark filed is not of such a nature as to falsely suggest to the public that a connection exists between the trade mark and the international intergovernmental organisation.

Filed or Registered Trade Marks as Relative Grounds for Refusal

9. - (1) Registration of a trade mark may be cancelled

1. if it is identical with an earlier filed or registered trade mark, and the goods or services for which the trade mark is registered are identical with the goods or services for which the earlier trade mark is filed or is registered;

2. if because of its identity with, or similarity to, the earlier filed or registered trade mark, and the identity or similarity of the goods or services covered by the trade marks, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the other trade marks; (...)

Opposition

42. - (1) Within a period of three months following the date of publication of the registration of the trade mark pursuant to Section 41, the proprietor of an earlier trade mark may give notice of opposition to registration of the trade mark.

(2) The opposition may only be based on the grounds that the trade mark may be cancelled due to

1. an earlier filed or earlier registered trade mark pursuant to Section 9 (1), No. 1 or 2;
2. an earlier well-known trade mark pursuant to Section 10 in conjunction with Section 9 (1), No. 1 or 2; or
3. its registration for an agent or representative of the proprietor of the trade mark pursuant to Section 11.

(3) (deleted)

Objection Due to Non-use;

Decision on the Opposition

43. - (1) If the proprietor of an earlier registered trade mark has given notice of opposition, he shall, if the other party contests the use of the trade mark, substantiate by prima facie evidence that, during the period of five years preceding the publication of the registration of the trade mark against which a notice of opposition has been given, the earlier registered trade mark has been put to use pursuant to Section 26, provided the earlier trade mark has at that date been registered for not less than five years. If the period of five years of non-use ends after the publication of the registration, the opponent shall, if the other party contests that use, substantiate by prima facie evidence that, during the period of five years preceding the decision on the opposition, the trade mark has been put to use pursuant to Section 26. In the decision, only those goods or services shall be considered of which use has been substantiated by prima facie evidence.

(2) If examination of the opposition reveals that the trade mark must be cancelled in respect of some or all of the goods or services for which it is registered, the registration shall be cancelled in full or in part. If the registration of the trade mark cannot be cancelled, the opposition shall be rejected.

(3) If the registered trade mark has to be cancelled because of one or several earlier trade marks, the proceedings with regard to further oppositions may be suspended until a decision on the registration of the trade mark has become final. (...)

Domestic Representative

96. - (1) Any person having neither a residence nor a seat nor an establishment in Germany may take part in proceedings before the Patent Office or the Patent Court, regulated by this Law, and may claim the rights conferred by the trade mark, only if he has appointed a patent attorney or an attorney-at-law in Germany as his representative, who shall be authorised to represent him in Patent Office and Patent Court proceedings and in civil litigation affecting the mark, and also file requests for the institution of criminal proceedings.

(2) Nationals of member states of the European Union or another contracting state of the Agreement on the European Economic Area may be appointed as representatives within the meaning of subsection 1 for rendering a service within the meaning of the Treaty Establishing the European Community, if they are authorised to pursue professional activities under any of the professional titles appearing in the respective applicable version of the annex to Section 1 of the Law on the Professional Activities of European Lawyers in Germany of 9 March 2000 [*Gesetz über die Tätigkeit europäischer Rechtsanwälte in Deutschland*] (BGBl I p. 182) or the

annex to Section 1 of the Law on the Qualifying Examination for Gaining Admission to the Profession of Patent Attorney of 6 July 1990 [*Gesetz über die Eignungsprüfung zur Zulassung zur Patentanwaltschaft*] (BGBl I p. 1349, 1351).

(3) The place where the representative, appointed under subsection 1, has his business premises shall be deemed, within the meaning of Section 23 of the Code of Civil Procedure, to be the place where the assets are located. If there are no business premises, then the place where the representative has his domicile in Germany shall be relevant and, in the absence thereof, the place where the Patent Office has its seat.

(4) The termination of the appointment of a representative under subsection 1 shall be effective only after the termination of the appointment and the appointment of a new representative have been communicated to the Patent Office or the Patent Court.

Application of the Provisions of this Law; Language

107. (1) The provisions of this Law shall be applicable mutatis mutandis to the international registration of marks under the Madrid Agreement Concerning the International Registration of Marks (Madrid Agreement) which are effected through the intermediary of the Patent Office or the protection of which extends to the territory of the Federal Republic of Germany unless otherwise provided in this Chapter or in the Madrid Agreement.

(2) All requests and other communications in the procedure concerning international registrations and the list of goods and services shall be submitted in French.

Examination as to Absolute Grounds for Refusal

113. - (1) International registration of marks shall be examined as to absolute grounds for refusal under Section 37 in the same way as marks in respect of which an application for registration has been filed. Section 37(2) shall not apply.

(2) Rejection of the application (Section 37(1)) shall be replaced by refusal of protection.

Opposition

114. - (1) For the purpose of international registrations, publications of the registration (Section 41) shall be replaced by publication in the gazette published by the International Bureau of the World Intellectual Property Organization².

(2) The time limit for lodging opposition (Section 42(1)) against the grant of protection for international registrations shall start on the first day of the month following the month indicated on the issue of the gazette containing the publication of the international registration.

(3) Cancellation of the registration (Section 43(2)) shall be replaced by refusal of protection.

Extract from the Trade Mark Ordinance version of 11 May 2004



Section 46 Refusal of Protection

(1) Where protection is, in full or in part, refused to an international registration the protection of which has been extended to the territory of the Federal Republic of Germany under Article 3ter of the Madrid Agreement or under Article 3ter of the Protocol Relating to the Madrid Agreement, and where this refusal is communicated to the International Bureau of the World Intellectual Property Organization to be transmitted to the proprietor of the international registration, the time limit for appointing a representative in Germany shall, to avoid final refusal, be fixed to four months from the date on which notification of refusal was dispatched by the International Bureau of the World Intellectual Property Organization.

(2) Where the refusal of protection has become final because the proprietor of the international registration has failed to appoint a representative in Germany, an objection to or an appeal from the refusal shall be filed with the German Patent and Trade Mark Office within one further month after the time limit of four months under subsection (1). Instructions about the proprietor's right to appeal shall be attached to the refusal. Sec. 61(2) of the Trade Mark Law shall apply mutatis mutandis.

¹ Federal Law Gazette

² Gazette OMPI des marques internationales/WIPO Gazette of International Marks (published fortnightly) (Editor's note)

still X.	<p>Supplementary box grounds for refusal – <i>item V</i> –</p> <p style="text-align: center;">International Trade Mark 1 269 362</p> <p>The company (companies) mentioned below has (have) lodged opposition to the admission of the trade mark because of earlier national or international application or registration of its (their) trade mark(s) listed below (Sec. 119, 124, 114, 42 Trade Mark Law; Art. 5 Protocol Relating to the Madrid Agreement; Art. 6 quinquies B Paris Convention):</p> <p>SENSI VIGNE & VINI S.R.L., 51035 Lamporecchio, Italy – EM 011631983</p>  <p><u>Note:</u></p> <p>If no representative has been appointed within the provisional time limit of the first four months, this fact constitutes in itself a ground for refusal after the notification concerning the refusal of protection has become final (Sec. 119, 96 Trade Mark Law).</p>	
XII.	<p>Annexes (crossed off below)</p> <p><input checked="" type="checkbox"/> 1 reproduction of 1 opposed trade mark including a figurative element or a special graphic design</p> <p><input type="checkbox"/> List specifying the registration number as well as the relevant goods/services in respect of each opposed trade mark</p> <p><input type="checkbox"/> List of professional representatives</p> <p><input type="checkbox"/> List of goods/services</p>	<p>XI. Signature or official seal of the administration which pronounced the refusal</p> 



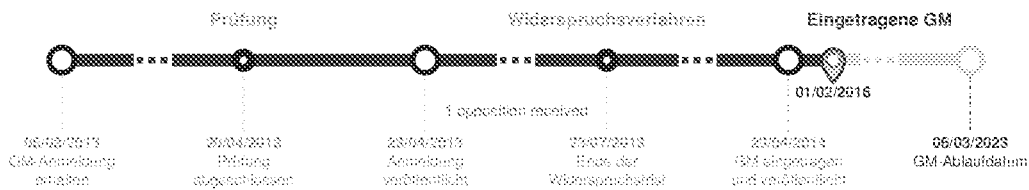
HARMONISIERUNGSAMT
FÜR DEN BINNENMARKT
MARKEN, MUSTER UND MODELLE

Schützen Sie Ihr geistiges Eigentum in der Europäischen Union.

Angaben zur GM-Akte

SENSI
011631983

Zeitlinie



Grafische Wiedergabe

SENSI

Angaben zur Marke

Name	SENSI	Datum der Einreichung	06/03/2013
Aktenzeichen	011631983	Datum der Eintragung	25/04/2014
Markenbasis	GM	Ablaufdatum	06/03/2023
Eingangsdatum	06/03/2013	Datum der Benennung	
Art	Bildmarke	Sprache der Einreichung	Italienisch
Art	Individualmarke	Zweite Sprache	Französisch
Nizza-Klasse	29, 33, 35 (Nizzaer Klassifikation)	Aktenzeichen der Anmeldung	DOTT.FC2013/16/COM
Wiener Klassifikation	27.05.01 (Wiener Klassifikation)	Status der Marke	Eingetragen
		Erworbene Unterscheidungskraft	No

Waren und Dienstleistungen

Deutsch (de)

29 Olivenöl für Speisezwecke.**33** Weine; Spirituosen; Liköre; Alkoholische Getränke (ausgenommen Bier).**35** Dienstleistungen für Rechnung und/oder zu Gunsten Dritter im Bereich Werbung und Geschäfte; Öffentlichkeitsarbeit und Marktforschung; Werbung und Verkaufsförderung für Weine, Spirituosen, Aperitifs und Liköre.

Beschreibung

Deutsch (de)

Beschreibung Besteht aus dem in besonderen Buchstaben geschriebenen Schriftzug "SENSI".
Farbe

Inhaber

SENSI VIGNE & VINI S.R.L.

Kennnummer	587494	Land	IT - ITALIEN	Postanschrift	
Organisation	SENSI VIGNE & VINI S.R.L.	Bundesland/Land	n/a	SENSI VIGNE & VINI S.R.L. VIA CERBAIA, 107 - FRAZ. CERBAIA I-51035 LAMPORECCHIO (PT) ITALIA	Zugriff und Änderung durch autorisierten Nutzer über User Area möglich
Rechtlich	Juristische Person	Ort	LAMPORECCHIO (PT)		
		Postleitzahl	51035		Zugriff und Änderung durch autorisierten Nutzer über User Area möglich
		Adresse	VIA CERBAIA, 107 - FRAZ. CERBAIA		Zugriff und Änderung durch autorisierten Nutzer über User Area möglich

Vertreter

DOTT. FRANCO CICOGNA & C.SRL

Kennnummer	14838	Land	IT - ITALIEN	Postanschrift	
Organisation	n/a	Bundesland/Land	n/a	DOTT. FRANCO CICOGNA & C.SRL Via Visconti di Modrone, 14/A I-20122 Milano ITALIA	00 39-0276000209
Rechtlich	Juristische Person	Ort	Milano		00 39-0276009604
Typ	Zusammenschl	Postleitzahl	20122		
		Adresse	Via Visconti di Modrone, 14/A		ufficio@brevetticicogna.com

Korrespondenz

Von	Verfahren	Aktenzeichen	Betreff	Datum	Maßnahmen
	GM	011631983	Surveillance letter	19/10/2015	
	GM	011631983	Surveillance letter	17/02/2015	
	Eintragung	009241111	C.2.1. - Representative - change of name & address - entry on the register - automatic template	12/02/2015	
	GM	011631983	Cover letter for registration certificate.	30/04/2014	
	GM	011631983	Eintragungsurkunde	29/04/2014	
	Widerspruch	002222928	Notification to opponent following withdrawal of opposition after commencement of adversarial part (no limitation).	23/04/2014	
	Widerspruch	002222928	Notification to applicant/holder conclusion of opposition proceedings following withdrawal of the opposition (no limitation).	23/04/2014	

Von	Verfahren	Aktenzeichen	Betreff	Datum	Maßnahmen
	Widerspruch	002222928	Schreiben an das HABM	03/04/2014	
	Widerspruch	002222928	Suspension of proceedings - to the opponent.	06/02/2014	
	Widerspruch	002222928	Suspension of proceedings - to the applicant.	06/02/2014	
Einträge 1 bis 10 von 27 werden angezeigt					

Umwandlung einer IR

Kein Eintrag

Zeitrang

Kein Eintrag

Ausstellungspriorität

Kein Eintrag

Priorität

Kein Eintrag

Veröffentlichungen

Nr. des Blatts	Datum	Abschnitt	Beschreibung
2013/076	23/04/2013	A.1	Anmeldungen, die gemäß Artikel 39 GMV veröffentlicht werden
2014/079	29/04/2014	B.2	Eintragungen mit Änderungen seit der Veröffentlichung der Anmeldung
2015/031	16/02/2015	C.2.1	Vertreter – Änderung des Namens und der Geschäftsanschrift
Einträge 1 bis 3 von 3 werden angezeigt			

Löschung

Kein Eintrag

Sonstige Eintragungen

Nr. des Blatts	Datum	Abschnitt	Aktenzeichen	Titel	Untertitel
2015/031	16/02/2015	C.2.1	009241111	Vertreter	Änderung des Namens und der Geschäftsanschrift
Einträge 1 bis 1 von 1 werden angezeigt					

Widersprüche

Aktenzeichen	Datum	Gründe	Widersprechender	Vertreter	Sprache	Aktenzeichen	Status	Umfang des Widerspruchs
002222928	23/07/2013	Likelihood of confusion	Sensi Seed B.V.	V.O.	Französisch	DOTT.FC2013/16/COM	Zurückgezogen	Class 35 Activité, pour le compte de tiers et/ou en faveur de tiers, dans le secteur de la publicité et des affaires; Activité de relations publiques et d'étude de marché; ACTIVITE CONSISTANT EN LA PUBLICITE ET LA PROMOTION DE LA COMMERCIALISATION DE VINS, DE SPIRITUEUX, D'APERITIFS ET DE LIQUEURS.Class 29

Aktenzeichen	Datum	Gründe	Widersprechender	Vertreter	Sprache	Aktenzeichen	Status	Umfang des Widerspruchs
								Huile d'olive comestible. Class 33 Vins; Spiritueux; Liqueurs; Boissons alcoolisées à l'exception des bières.
Einträge 1 bis 1 von 1 werden angezeigt								

Beschwerden

Kein Eintrag

Entscheidungen

Kein Eintrag

Verlängerungen

Kein Eintrag

Markenbeziehungen

Kein Eintrag