



**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  
**1269362**

III. Other information concerning the international registration which is the subject of the provisional refusal:  
Figurative mark / verbal elements of the mark: **SENSE**

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

1. The trademark is similar to an earlier trademark, which has been granted legal protection with regard to identical and similar kind of goods in class 33 and there exists a likelihood of confusion on the part of the public, which includes association of the trademark with the earlier trademark (copy of the registration enclosed).

**SENS**, EU trademark No 009280686 (registration date 06.03.2012, application date 29.07.2010)

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

Schlumberger Wein- und Sektkellerei GmbH  
c/o Underberg GmbH & Co. KG  
Abt. Markenschutz  
Underbergstr. 1-3  
D-47495 Rheinberg  
Germany

The written consent from the above-mentioned owner of the trademark is required for protection of the trademark in Estonia.

2. The trademark is similar to an earlier trademark, which has been granted legal protection with

similar kind of goods in class 32 and there exists a likelihood of confusion on the part of the public, which includes association of the trademark with the earlier trademark (copy of the registration enclosed).

**8° SENSE**, EU trademark No 011955093 (registration date 26.06.2015, application date 04.07.2013)

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

AL SARACENO GROUP SRL  
Via Valle d'Aosta 10/4  
I-17031 ALBENGA (SAVONA)  
Italia

The written consent from the above-mentioned owner of the trademark is required for protection of the trademark in Estonia.

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

Section 11 subsection 1 (6)

VI. The ground referred to in item IV.1 affects all the goods.  
The ground referred to in item IV.2 affects all the goods.

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 **20/09/2016** (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 review 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: 20/05/2016 (dd/mm/yyyy).

IX. Signature of the Office:

Erle Eenmaa  
Senior Examiner

Number of continuation sheets: 8

## **Extract from the Estonian Trademark Act**

### **§ 10. Relative circumstances, which preclude legal protection**

(1) Legal protection shall not be granted to the following trademarks:

- 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:

- 6) a Community trade mark registered 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.

### **§ 13. Representative for performing acts related to legal protection of trademarks**

- (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 procedures related to trade marks in the Patent Office and in the Board of Appeal, except the filing of an application.

### **§ 38. Examination of trademarks**

- (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 trademark.

### **§ 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 are equal to those arising from a nationally registered trade mark.

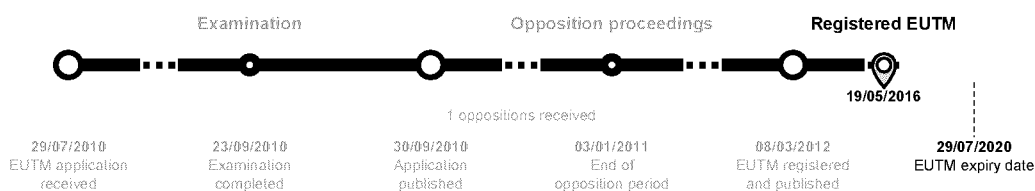


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## EUTM file information

**Sens**  
**009280686**

### Timeline



### Trade mark information

Name	<b>Sens</b>	Filing date	<b>29/07/2010</b>
Filing number	<b>009280686</b>	Registration date	<b>06/03/2012</b>
Basis	<b>EUTM</b>	Expiry date	<b>29/07/2020</b>
Date of receipt	<b>29/07/2010</b>	Designation date	
Type	<b>Word</b>	Filing language	<b>German</b>
Nature	<b>Individual</b>	Second language	<b>English</b>
Nice classes	<b>32, 33 ( Nice Classification )</b>	Application reference	<b>Sens</b>
Vienna Classification		Trade mark status	<b>Registered</b>
		Acquired distinctiveness	<b>No</b>

### Goods and services

English (en) ☒

- 32** Beers; non-alcoholic beverages, namely tonic water, ginger ale, bitter lemon.  
**33** Alcoholic beverages (except beers).

### Description

No entry

### Owners

#### Schlumberger Wein- und Sektkellerei GmbH

ID	<b>189940</b>	Country	<b>AT - Austria</b>	Correspondence address	Can be accessed and changed by authorised user via the User Area
Organisation	<b>Schlumberger Wein- und Sektkellerei GmbH</b>	State/county	<b>n/a</b>	Schlumberger Wein- und Sektkellerei GmbH	
		Town	<b>Wien</b>	c/o Underberg GmbH & Co. KG	
		Post code	<b>1190</b>	Abt. Markenschutz	
Legal status	<b>Legal entity</b>	Address	<b>Heiligenstädte Str. 43</b>	Underbergstr. 1-3	

D-47495 Rheinberg  
ALEMANIACan be accessed and  
changed by authorised user  
via the User AreaCan be accessed and  
changed by authorised user  
via the User Area

## Representatives

No entry

## Correspondence

From	Procedure	Filing number	Subject	Date	Actions
	EUTM	009280686	Surveillance letter	24/09/2015	
	EUTM	009280686	Surveillance letter	16/12/2013	
	EUTM	009280686	Cover letter for registration certificate.	12/03/2012	
	EUTM	009280686	Certificate of Registration	09/03/2012	
	Opposition	001778219	Letter to the EUIPO	01/03/2012	
	Opposition	001778219	Conclusion Of Proceedings Pursuant To Withdrawal Of Opposition before AP- To The Opposing Party	01/03/2012	
	Opposition	001778219	Conclusion Of Proceedings Pursuant To Withdrawal Of Opposition before AP- To The Applicant	01/03/2012	
	EUTM	009280686	Limitation of G&S: Confirmation	17/02/2012	
	Opposition	001778219	Communication to the applicant confirming that the restriction of the application has been forwarded to the opponent	17/02/2012	
	Opposition	001778219	Communication to the opponent of a limitation of the opposed application before commencement.	17/02/2012	

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## IR transformation

No entry

## Seniority

No entry

## Exhibition priority

No entry

## Priority

No entry

## Publications

Bulletin number	Date	Section	Description
2010/184	30/09/2010	A.1	Applications published under article 40 EUTMR
2012/048	08/03/2012	B.2	Registrations with amendments since the application was published

Showing 1 to 2 of 2 entries

## Cancellation

No entry

## Recordals

No entry

## Oppositions

Filing number	Date	Grounds	Opponent	Representative	Language	Reference	Status	Extent of opposition
001778219	30/12/2010	Likelihood of confusion Unfair advantage /detriment to distinctiveness or repute	Hutchison China MediTech Enterprises (Bahamas) Limited	R.G.C. JENKINS & CO	English	Sens	Withdrawn	Class 30 Coffee, tea. Class 32 Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages. Class 33 Alcoholic beverages (except beers).

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## Appeals

No entry

## Decisions

No entry

## Renewals

No entry

## Trade mark relations

No entry

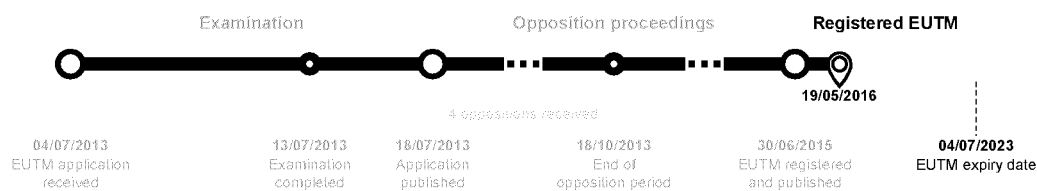


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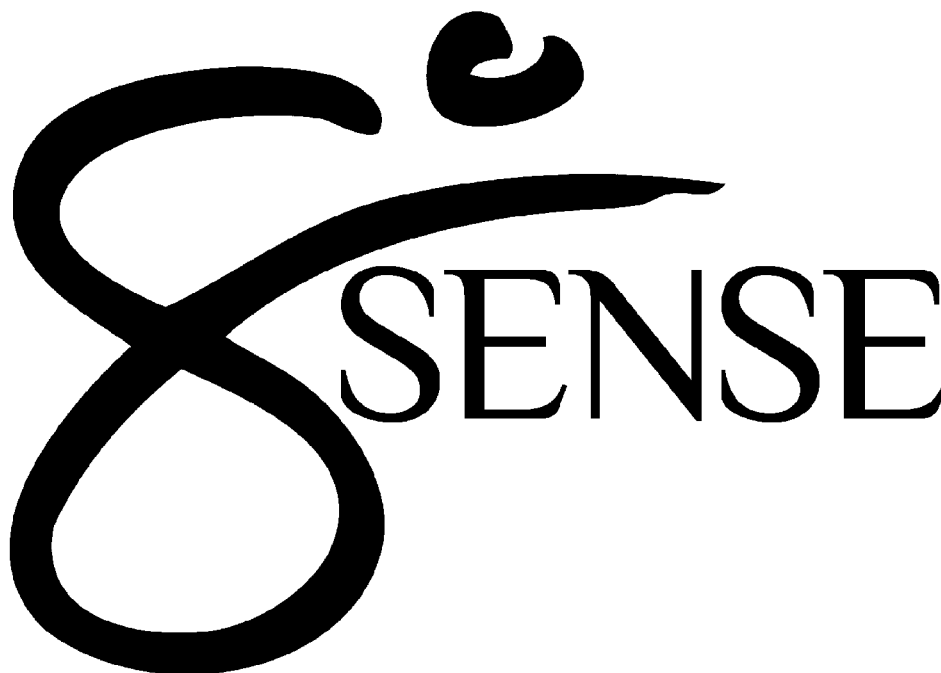
## EUTM file information

**8° SENSE**  
011955093

### Timeline



### Graphic representation



### Trade mark information

Name	8° SENSE	Filing date	04/07/2013
Filing number	011955093	Registration date	26/06/2015
Basis	EUTM	Expiry date	04/07/2023
Date of receipt	04/07/2013	Designation date	

Type	<b>Figurative</b>	Filing language	<b>Italian</b>
Nature	<b>Individual</b>	Second language	<b>English</b>
Nice classes	<b>16, 29, 30, 31, 32, 41, 43 ( Nice Classification )</b>	Application reference	
Vienna Classification	<b>24.17.09, 27.05.01, 27.07.01 ( Vienna Classification )</b>	Trade mark status	<b>Registered</b>
		Acquired distinctiveness	<b>No</b>

## Goods and services

English (en)



**16** Paper, cardboard and goods made from these materials, not included in other classes; Printed matter; Bookbinding material; Photographs; Stationery; Adhesives for stationery or household purposes; Artists' materials; Paint brushes; Typewriters and office requisites (except furniture); Instructional and teaching material (except apparatus); Plastic materials for packaging (not included in other classes); Printers' type; Printing blocks.

**29** Meat, fish, poultry and game; Meat extracts; Preserved, frozen, dried and cooked fruits and vegetables; Jellies, jams, compotes; Eggs; Milk and milk products; Edible oils and fats.

**30** Coffee, tea, cocoa and artificial coffee; Rice; Tapioca and sago; Flour and preparations made from cereals; Bread, pastry and confectionery; Ices; Sugar, honey, treacle; Yeast, baking-powder; Salt; Mustard; Vinegar, sauces (condiments); Spices; Ice.

**31** Grains and agricultural, horticultural and forestry products not included in other classes; Live animals; Fresh fruits and vegetables; Natural plants and flowers; Foodstuffs for animals; Malt.

**32** Mineral and aerated waters and other non-alcoholic beverages; Fruit beverages and fruit juices; Syrups and other preparations for making beverages.

**41** Education; Providing of training; Entertainment; Sporting and cultural activities.

**43** Services for providing food and drink; Temporary accommodation.

## Description

No entry

## Owners

### AL SARACENO GROUP SRL

ID	<b>582040</b>	Country	<b>IT - Italy</b>	Correspondence address	
Organisation	<b>AL SARACENO GROUP SRL</b>	State/country	<b>n/a</b>	AL SARACENO GROUP SRL Via Valle d'Aosta 10/4 I-17031 ALBENGA (SAVONA) ITALIA	Can be accessed and changed by authorised user via the User Area
Legal status	<b>Legal entity</b>	Town	<b>ALBENGA (SAVONA)</b>		
		Post code	<b>17031</b>		Can be accessed and changed by authorised user via the User Area
		Address	<b>Via Valle d'Aosta 10/4</b>		Can be accessed and changed by authorised user via the User Area

## Representatives

### Novaro, Nicola

ID	<b>29152</b>	Country	<b>IT - Italy</b>	Correspondence address	00 39-3472580056
Organisation	<b>n/a</b>	State/country	<b>n/a</b>	Nicola Novaro Via Marconi, 14 I-18013 Diano Castello (Imperia) ITALIA	00 39-0183494470
Legal status	<b>Individual</b>	Town	<b>Diano Castello (Imperia)</b>		
Type	<b>Lawyer</b>	Post code	<b>18013</b>		nicolanovaro@hotmail.com
		Address	<b>Via Marconi, 14</b>		



## Correspondence

From	Procedure	Filing number	Subject	Date	Actions
	EUTM	011955093	Certificate of Registration	30/06/2015	
	EUTM	011955093	Cover letter for registration certificate.	30/06/2015	
	Opposition	002261645	catintdoc_1	23/03/2015	
	Opposition	002261645	Notification of a decision to the opposing party	23/03/2015	
	Opposition	002261645	Notification to the applicant of a decision	23/03/2015	
	Opposition	002261645	Notification to the applicant of continuation of opposition proceedings after suspension	06/02/2015	
	Opposition	002261645	Notification to the opposing party of continuation of opposition proceedings after suspension	06/02/2015	
	Opposition	002261645	Letter to the EUIPO	29/01/2015	
	Opposition	002249913	Notification to the opponent - withdrawal of opposition after commencement of adversarial part (following a partial refusal)	14/01/2015	
	Opposition	002249913	Notification to the applicant - withdrawal of opposition after commencement of adversarial part (following a partial refusal)	14/01/2015	

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## IR transformation

No entry

## Seniority

No entry

## Exhibition priority

No entry

## Priority

No entry

## Publications

Bulletin number	Date	Section	Description
2013/134	18/07/2013	A.1	Applications published under article 40 EUTMR
2015/119	30/06/2015	B.2	Registrations with amendments since the application was published

Showing 1 to 2 of 2 entries

## Cancellation

No entry

## Recordals

No entry

## Oppositions

Filing number	Date	Grounds	Opponent	Representative	Language	Reference	Status	Extent of opposition
002261884	17/10/2013	Likelihood of confusion	SLC Sustainable Luxury Cyprus Limited	MEISSNER, BOLTE & PARTNER GBR	English		Closed	Class 41 Education; Providing of training; Entertainment; Sporting and cultural activities. Class 43 Services for providing food and drink; Temporary accommodation.
002257619	16/10/2013	Likelihood of confusion	SELECCIÓN MARE NOSTRUM BODEGAS S.L.	GARRIGUES IP, S.L.P	English		Closed	Class 32 Beers; Mineral and aerated waters and other non-alcoholic beverages. Class 33 Alcoholic beverages (except beers).
002261645	16/10/2013	Identity of marks and G&S Likelihood of confusion Unfair advantage /detriment to distinctiveness or reputation Earlier sign & right to prohibit use of later TM under national law	SENSI VIGNE & VINI S.R.L.	DOTT. FRANCO CICOGLIA & C.SRL	Italian		Closed	Class 29 Carne, pesce, pollame e selvaggina; Estratti di carne; Frutta e ortaggi conservati, congelati, essiccati e cotti; Gelatine, marmellate, composte; Uova; Latte e prodotti derivati dal latte; Olii e grassi commestibili. Class 33 Bevande alcoliche (escluse le birre).
002249913	19/09/2013	Likelihood of confusion	Not valid	J.E. DIAS COSTA, LDA.	English		Withdrawn	Class 32 Beers; Mineral and aerated waters and other non-alcoholic beverages; Fruit beverages and fruit juices; Syrups and other preparations for making beverages. Class 33 Alcoholic beverages (except beers).

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## Appeals

No entry

## Decisions

Case number	Type	Case	Legal status	Keywords	Status	Decision date
+ Opposition 002257619	Opposition		Article 8(1)(b) CTMR		Partially refused EUTMA/IR	18/08/2014
+ Opposition 002261645	Opposition		Article 8(1)(a) CTMR, Article 8(1)(b) CTMR, Article 8(5) CTMR		Reject opposition	23/03/2015
+ Opposition 002261884	Opposition		Article 8(1)(b) CTMR		Reject opposition	31/10/2014