



**ARRANGEMENT DE MADRID  
CONCERNANT L'ENREGISTREMENT INTERNATIONAL DES MARQUES  
ET PROTOCOLE RELATIF À CET ARRANGEMENT**

**REFUS PROVISOIRE**

notifiée au Bureau international de l'Organisation Mondiale de la Propriété Intellectuelle (OMPI)  
selon l'article 5 de l'Arrangement de Madrid et du Protocole de Madrid

<b>I. Office qui notifie le refus</b> <b>OFFICE DES BREVETS DE LA REPUBLIQUE DE LETTONIE</b> <b>Citadeles iela 7/70</b> <b>LV 1010, Rīga</b> <b>LETONIE</b>		<b>Téléphone</b> 371 67099605 <b>Télécopie</b> 371 67099650
<b>II. N° de l'enregistrement international faisant l'objet du refus</b>		<b>1281232</b>
<b>III. Nom du titulaire de l'enregistrement international faisant l'objet du refus</b> <b>SWATCH AG (SWATCH SA) (SWATCH LTD.)</b> <b>Jakob-Stämpfli-Strasse 94</b> <b>CH-2502 Biel/Bienne</b> <b>(CH)</b>		
<b>IV. Motifs du refus</b> <b>ONE MORE THING /la marque non déposée/ Apple Inc., 1 Infinite Loop, Cupertino, California</b> <b>95014-2084, USA s'oppose à l'enregistrement de la marque.</b>		
<b>V. Dispositions de la loi nationale applicables en la matière (voir feuille supplémentaire)</b> <b>ARTICLE 18, 39, l'opposition est basée sur l'article 6 (2) ; 8 ; 9 (3)4</b>		
<b>VI.</b> <input checked="" type="checkbox"/> <b>Refus pour la totalité des produits et services</b>  <input type="checkbox"/> <b>Refus pour les produits suivants *</b>		
<b>VII. Possibilités de réclamations et de recours</b> Le titulaire de la marque a le droit de présenter ses objections contre le présent refus <b>auprès de l'Office des brevets de Lettonie dans le délai de 3 mois</b> à compter de la date de la notification de Bureau International. Le recours doit être présenté <b>par l'intermédiaire d'un mandataire local</b> . (Loi sur les marques et les indications géographiques, Article 17. <sup>1</sup> ; Loi des institutions et procédures de propriété industrielle, Article 58). Après l'expiration du délai imparti, la Commission de recours prendra la décision sur l'acceptation de l'opposition ou de son rejet. L'affaire peut- être réexaminée auprès de Tribunal de Riga-ville (quartier Vidzeme) dans le délai de 3 mois compté de la notification de la décision de Commission de recours.		
<b>VIII. Date à laquelle le refus a été prononcé</b>		<b>13.05.2016</b>
<b>IX. Signature ou sceau officiel de l'Office qui notifie le refus</b>		
		<b>Dz. Medne</b> 

## **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 file with the Patent Office an application for opposition to the registration of a trade mark. The filing of the application for opposition, the progress and examination of it shall be executed/carried out according to the provisions of the Law on Industrial Property Institutions and Procedures.

*[21 October 2004] [19 November 2015]*

## **Section 39. Validity of an International Registration in Latvia**

*[...]*

(5) An applicant for opposition to the entry into effect of an international registration of a trade mark in Latvia, as provided for in Section 18 of this Law, shall be filed within four months from the date of publication of a notice of trade mark registration with respect to Latvia (territorial extension to Latvia) in the official gazette of international registration of trade marks.

(6) If, as a result of an examination, it is determined that an international trade mark does not comply with the requirements of Paragraph four of this Section, or if an opposition has been filed to such registration, the Patent Office shall, within the terms and in accordance with the procedures laid down in the rules on the international registration of trade marks, notify the International Bureau of the refusal of the particular international registration (provisional refusal). Within three months from the date on which the International Bureau has notified of the refusal, the owner of the international registration is entitled to submit a notice of appeal (a reply to the application for opposition) as provided for in Section 17.<sup>1</sup> of this Law.

*[21 October 2004] [19 November 2015]*

## **Section 6. Absolute Grounds for Refusal and Invalidation of Trade Mark Registration**

(1) The following signs may not be registered as trade marks (if they have been registered, such registration may be declared invalid in accordance with the provisions of this Law):

1) those which cannot constitute a trade mark, that is, signs which do not comply with the provisions of Section 3 of this Law;

2) those which lack any distinctive character with respect to the goods or services applied for;

3) those which consist solely of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose (functional task), value, geographical origin, or the time of production of the goods or of providing the services, or other characteristics of the goods or services;

4) those which consist solely of signs or indications (general signs) which have become customary in the current language or in fair and established practices of the trade to designate the goods or services applied for;

5) those which consist solely of a shape which is directly determined by the kind of goods (the shape results directly from the nature of the goods themselves), or which is necessary to obtain a particular technical result, or which gives substantial value to the goods;

6) those which are contrary to public order or to socially accepted principles of morality;

7) those which may deceive consumers regarding the nature, quality or geographical origin, or the like, of the goods or services;

8) those which contain signs, the registration of which, would be refused or invalidated in accordance with Article 6-ter of the Paris Convention, including coats of arms and flags of the member countries of the Paris Union, their official hallmarks (assay marks), control and warranty marks, as well as the emblems, flags, and names of international organisations and the abbreviations thereof, without authorisation by the competent authorities;

9) those which, without authorisation by the competent authorities given in accordance with the procedures laid down in the laws and regulations of the Republic of Latvia, contain the official heraldry approved at the State level, national decorations, Official Service insignia, as well as signs for official hallmarks (assay marks), control, quality, warranty, and safety of using goods which are used with respect to identical or similar goods or services in Latvia;

9<sup>1</sup>) those which contain other signs of high symbolic value, as well as religious symbols;

10) with respect to wines - those which contain or consist of an indication of geographical origin identifying wines of particular origin, or with respect to spirits – those which contain or consist of an indication of geographical origin identifying spirits of particular origin, if such is not the genuine place of origin of the wines or spirits for which the trade mark registration has been applied;

11) those which are intended for the marking of agricultural and food products and contain an indication of geographical origin protected in regard to the same agricultural or food products or consist of such protected indication of geographical origin, if the products for which trade mark registration has been applied, do not have the respective origin or if the use of the sign applied for in connection with these products is contradictory to the laws and regulations governing the protection of geographical indications and designations of origin.

(2) A trade mark also shall not be registered or, if registered, may be liable to be declared invalid in accordance with the provisions of this Law if the application for registration of the trade mark was clearly made in bad faith by the applicant.

(3) A trade mark registration may not be refused on the basis of the provisions of Paragraph one, Clauses 2, 3 or 4 of this Section, and shall not be declared invalid on the basis of the same provisions if, as a result of the use of the mark, it has acquired a distinctive character in the perception of the relevant consumers in Latvia with respect to the goods and services for which registration has been applied.

*[21 October 2004] [19 November 2015]*

## **Section 8. Well-known Trade Marks as Grounds for Refusal or Invalidation of Trade Mark Registration**

(1) Notwithstanding the provisions of Section 7 of this Law, a trade mark registration may be refused or, if registered, the registration may be invalidated under the provisions of this Law, if the trade mark constitutes a reproduction, an imitation, a translation or a transliteration, liable to create confusion, of another trade mark, which, even though unregistered, was well-known in Latvia with respect to identical or similar goods or services, on the date of filing of application of the applied for (opposed) registration of trade mark (or the date of priority if priority has been granted).

(2) In addition to the provisions of Paragraph one of this Section, the registration of a trade mark may be refused or invalidated also if the goods or services regarding which trade mark registration has been applied for are not similar to the goods or services covered by a well-known trade mark in Latvia, provided that the use of the trade mark applied for (opposed) in relation to such goods or services may be perceived by consumers as an indication of a connection between such goods and services, and the owner of the well-known trade mark, and that such use may be detrimental to the interests of the owner of the well-known trade mark.

(3) In determining whether a trade mark is well-known, the knowledge of this trade mark in the relevant group of consumers, including such knowledge in Latvia that has been obtained as a result of the advertising of this mark or any other circumstances that have contributed to its fame shall be taken into account.

(4) In determining in which cases the provisions of Paragraphs one and two of this Section are to be applied to a sign regarding which registration has been applied for or to a registered trade mark, the provisions of Article 6-bis of the Paris Convention regarding a well-known trade mark shall be taken into account, including the provision which provides for the prohibition of the reproduction or the imitation of a well-known trade mark in an essential part of another trade mark; these provisions shall also apply, mutatis mutandis, to service marks.

(5) The provisions of Paragraphs one and two of this Section regarding refusal of registration during the expert-examination procedure shall not apply if the application for trade mark registration has been filed with the consent of the owner of the well-known trade mark.

## **Section 9. Other Earlier Rights as Grounds for Invalidation of Trade Mark Registration**

(1) A trade mark registration may be also declared invalid if the trade mark is identical or similar to an earlier collective trade mark for which the period of validity has expired within the last three years preceding the filing date of the contested trade mark.

(2) A trade mark registration may be also declared invalid on the basis of the trade mark being identical or similar to an earlier trade mark which was registered for identical or similar goods or services and for which the period of validity has expired, for failure to renew, within the last two years preceding the filing date of the contested trade mark, except in cases when the owner of the earlier trade mark has consented to the registration of the contested mark or has not used the trade mark.

(3) A trade mark registration may be also declared invalid on the basis that another person has, prior to the trade mark filing date (also taking into account its priority date), acquired in Latvia other rights which allow the prohibition of the use of the trade mark; registration may be contested also on the basis of the following rights:

1) personal rights, that is, rights related to the given name, surname, pseudonym, portrait or facsimile of a person well-known to the general public, except in the case when such person has been deceased for 50 or more years;

2) copyright;

3) commercial rights, that is, rights related to a trade name (commercial designation, name of a mass medium, or other similar sign) that is used in an identical or similar business sector, if its fair and lawful use in commercial activities in Latvia was commenced before the date of filing of application of the trade mark, or the priority date respectively, or a trade name (commercial designation, name of a mass medium or other similar sign) of Latvia or of a foreign state that was well known in Latvia;

4) other industrial property rights including rights related to an unregistered trade mark or other mark used for distinguishing the goods or services, and the domain name if the unregistered trade mark, other mark referred to or domain name has been used honestly prior to the date of filing of application for the registration of the trade mark (or the priority date respectively), in commercial activities in Latvia in connection with identical or similar goods or services for so long and in such amount that the use of the registered trade mark may confuse consumers about the origin of the respective goods or services.

(4) A person who is the owner of a trade mark in any of the member states of the Paris Union are also entitled to request invalidation of the trade mark, if an agent or representative of the owner has registered the mark in his or her own name in Latvia without authorisation from the owner, except in cases when such agent or representative has sufficient justification for his or her action.

*[21 October 2004]*