

DECISION

International registration has no effect in Sweden
IR 769811

Graefe Rechtsanwälte
Theresienstraße 6
D-80333 München
Germany

HOLDER

L'Tur Tourismus AG
medien centrum, 8, Augustaplatz
D-67530 Baden-Baden
Germany

Exp. Patent- och registreringsverket

REPRESENTATIVE

Graefe Rechtsanwälte
Theresienstraße 6
D-80333 München
Germany

2004 -09- 17

DECISION

The Swedish Patent and Registration Office decides that the international registration 769811 has no effect in Sweden according to Article 56 par. 2 of the Swedish Trademark Act (1960:644).

THE MATTER

Effect in Sweden of the international registration SUPERLASTMINUTE-BIZ, registered for on-line provider services, namely collection of information, text, graphics and images; rental of advertising spaces (webpace); electronic commerce services, namely negotiating and concluding business operations via on-line stores, class 35, telecommunications, transmission of information on the Internet, online provider services, namely transmission of information, text, graphics and images, as well as provision of access to information, text, graphics and images, class 38, travel agency services, particularly last minute holidays; transport agency services, class 39.

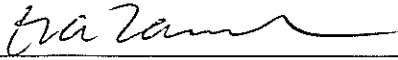
The holder has not requested a review of the provisional refusal within the time limit.

GROUND(S) FOR REFUSAL

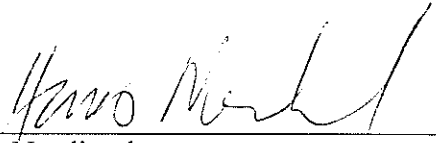
An obstacle to admitting effect in Sweden exists according to Article 54 par. 2 of the Swedish Trademark Act if the trademark referred to in the international registration does not fulfil the requirements under Article 13 or if an obstacle to a national registration would have existed according to Article 14.

- The mark is confusingly similar to the Community Trademark(s), Lastminute.com, no 1527811, Article 14 par. 1, item 9 of the Swedish Trademark Act.

Date of decision 17 SEP 2004



Eva Zamel

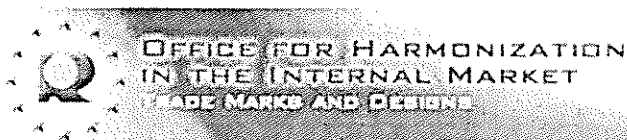


Hans Nordlund

An appeal shall be lodged with the Court of Patent Appeals (Patentbesvärsrätten) within 2 (two) months from the date of the decision. The communications between the Court and the holder must be in Swedish. The appeal must be sent to:

The Swedish Patent and Registration Office
Box 530
S-826 27 SÖDERHAMN
Sweden

Enclosure: Extract from the Swedish Trademarks Act and a copy or copies of confusingly similar trademark registrations.



CTM-ONLINE - Detailed trade mark information



List of results

Trade mark name : LASTMINUTE.COM
 Trade mark No : 001527811
 Number of results: 1 of 1

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Trade mark

Filing date: 25/02/2000
 Date of registration: 01/07/2004
 Expiry Date: 25/02/2010
 Nice Classification: 35, 36, 37, 38, 41, 42 ([↔](#) Nice classification)
 Trade mark: Individual
 Type of mark: Word
 Acquired distinctiveness: No
 Date of last status: 16/08/2004
 Status of trade mark: Registration published ([↔](#) Glossary)
 ([↔](#) History of statuses)
 Filing language: English
 Second language: French

Graphic representation

No entry for application number: 001527811

 List of goods and services

Nice Classification: 35
 List of goods and services: Commercial information agency services; provision of information relating to business and companies; auctioneering services including via the Internet; provision and/or rental of advertising space on the Internet; compilation of business directories; advertising and promotional services; dissemination of advertising matter; the bringing together, for the benefit of others, of a variety of goods and/or services, enabling customers to conveniently view and purchase those goods and/or services via the Internet; information, advisory and consultancy services relating to the aforesaid.

Nice Classification: 36
 List of goods and services: Provision of financial information; banking and financial services; information, consultancy and advisory services relating to the aforesaid.

Nice Classification: 37
 List of goods and services: Provision of plumbing services, cleaning services, ironing services, carpentry services, electrical and building services; the provision of information, advisory and consultancy services relating to gas and central heating, and other household/domestic services; installation services relating thereto; information, consultancy and advisory services relating to the aforesaid.

Nice Classification:	38
List of goods and services	Telecommunication services; provision of electronic communications links, electronic order transmission services; electronic transmission services; providing access to on-line information; providing access to the Internet to allow electronic purchasing.
Nice Classification:	41
List of goods and services	Provision of information relating to sport and entertainment; information, advisory and consultancy services relating to the aforesaid.
Nice Classification:	42
List of goods and services	Provision of facilities and equipment to enable trade via electronic means or non-electronic means; design of facilities for the searching and retrieval of information via the Internet and on-line databases including related networking systems; provision of dating/introduction services; social escorting services; provision of information via the Internet, databases or other electronic means in relation to the aforesaid; gardening services; information, advisory and consultancy services relating to the aforesaid.

Ⓢ Description

Description of the mark: Description is not available in this language

Owner

Name: Last Minute Network Limited
ID No: 80832
Natural or legal person: Legal entity
Address: 4 Buckingham Gate
Post code: SW1E 6JP
Town: London
Country: UNITED KINGDOM
Correspondence address: Last Minute Network Limited 4 Buckingham Gate
 London SW1E 6JP REINO UNIDO

Representative

Name: MARKFORCE ASSOCIATES
ID No: 10760
Address: 85 Strand
Post code: WC2R 0DW
Town: London
Country: UNITED KINGDOM
Correspondence address: MARKFORCE ASSOCIATES 85 Strand London WC2R
 0DW REINO UNIDO
Telephone: 00 44-2075541800
Fax: 00 44-2075541801
E-mail: Ⓢ info@markforce.com

Seniority

No entry for application number: 001527811.

Exhibition priority

No entry for application number: 001527811

Priority

No entry for application number: 001527811.

Publication

Bulletin no.: ¶ 002/2004
Date of publication: 12/01/2004
Part: A
Page: 35

Bulletin no.: ¶ 034/2004
Date of publication: 23/08/2004
Part: B
Page: 2135

Opposition

No entry for application number: 001527811

Cancellation

No entry for application number: 001527811

¶ Appeals

Appeal number: R1043/2001-2
Date of receipt: 18/12/2001
Appellant name: Last Minute Network Limited
Appellant number: 80832

Recordals

No entry for application number: 001527811

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Extract from the Swedish Trademarks Act

Article 2. An exclusive right in a trademark is acquired also without registration when the mark has been established on the market.

Article 6. Symbols shall be deemed to be confusingly similar under this Act only if they relate to goods of the same kind or a similar kind.

Confusing similarity may be invoked also for the benefit of a symbol, which has a reputation in this country if the use of another similar symbol would take unfair advantage of, or would be detrimental to, the distinctive character or reputation of the symbol having the reputation.

Article 13. A trademark may be registered only if it is distinctive. A mark which, exclusively or with only minor changes or additions, indicates the kind, quality, quantity, use, price or geographical origin of the goods or the date of their production shall not in itself be deemed to be distinctive. In the assessment of whether a mark is distinctive consideration shall be given to all circumstances and in particular to the scale and the time of the use of the mark. A symbol consisting exclusively of a shape which results from the nature of the goods or of a shape which is necessary to obtain a technical result or of a sign which gives a substantial value to the goods may not be registered as a trademark.

Article 14. A trademark may not be registered:

- 1) if the mark contains such a State emblem or international emblem or such a local authority coat of arms which under existing laws or regulations may not be used, without permission, as a trademark, or anything that may be easily confused therewith;
- 2) if the mark is likely to deceive the public;
- 3) if the mark is otherwise contrary to laws or regulations or public order or is likely to cause offence;
- 4) if the mark contains or consists of elements which are likely to convey the impression of being another person's trade name or the family name, artistic name or similar name of another person, or another person's portrait, unless the name or the portrait obviously relates to a person who is long deceased;
- 5) if the mark contains an element which is likely to convey the impression of being the title of another person's protected literary or artistic work, where the title is distinctive, or which would violate another person's copyright in a literary or artistic work or another person's right in a photographic picture or in a design;
- 6) if the mark is confusingly similar to a name or a trade name which is being used in the course of another person's business activities or to another person's trademark which is registered on the basis of an earlier application, or to another person's trade symbol which is established on the market when the application for registration is filed;
- 7) if the mark is confusingly similar to a trade symbol which, at the time of the application, is being used by another person and the applicant had knowledge about that use at the time of the application and had not used the mark before the other symbol was first used;
- 8) if the mark is confusingly similar to a trademark covered by an international registration with effect in Sweden and for which the date referred to in Article 55, second paragraph, precedes the date of the application.

9) if the mark is confusingly similar to a Community trademark owned by another person which is registered on the basis of an earlier application.

In cases referred to in items 4), 5), 6), 7) 8) and 9) the registration may nevertheless be effected if the person whose right is involved gives his consent and there are no other obstacles according to the provisions of the first paragraph. ---

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Article 15. An exclusive right in a trademark acquired through registration does not include such elements of the mark, which can not by them be registered.

Article 21. Following an opposition, the Registration Authority shall invalidate the registration if there is an obstacle to it. If there is an obstacle only in respect of part of the goods listed in the registration, the Registration Authority shall, instead, if the trademark owner so desires, invalidate the registration only as regards those goods.

The Registration Authority shall refuse the opposition if there is no obstacle to the registration.

A notice shall be published when the decision of the Registration Authority concerning the opposition has taken legal force. If the decision implies that the registration is invalidated wholly or in part, this fact shall be recorded in the register.

Article 54. If the National Trademark Authority receives a notification from the International Bureau to the effect that a person other than one referred to in Article 51 has requested an extension of the territorial effect of an international registration of a mark to Sweden, the Authority shall examine whether there is an obstacle to admitting such an effect.

Such an obstacle exists if the trademark referred to in the international registration does not fulfil the requirements under Article 13 or if an obstacle to a national registration would have existed according to Article 14.

Article 55. If there is an obstacle to the registration according to Article 54, second paragraph, the National Trademark Authority shall, within 18 months from the date of the notification referred to in Article 54, first paragraph, notify the International Bureau that the international registration can not have effect in Sweden and state the grounds therefore.

Article 56. After the expiry of the time limit indicated in Article 55, third paragraph, the National Trademark Authority shall, if there is no obstacle to it, decide that the international registration shall have effect in Sweden. When that decision has taken legal effect, the trademark shall be entered into the register and a notice of this fact be published.

If there is an obstacle to admitting the effect in Sweden of the international registration, the National Trademark authority shall decide that the international registration shall not have any effect in this country. The decision shall indicate the grounds which have determined the result. If the National Trademark Authority has not previously transmitted a notification under Article 55, first paragraph, it shall communicate the decision to the International Bureau within 18 months from the date of the notification referred to in Article 54, first paragraph, or, if the time period indicated in Article 55, third paragraph, expires later, within one month from the expiry of that period. In the latter case, the National Trademark Authority shall, within 18 months from the date of the notification referred to in Article 54, first paragraph, notify the International Bureau that a decision as just referred to may be communicated later. When the decision that the international registration shall not have any effect in Sweden has taken legal force, a notice of this fact shall be published.