

DECISION

**International registration has no effect in
Sweden**
IR 782509

Blaum, Dettmers, Rabstein, Rechtsanwälte und
Notare
Am Wall 153-156
D-28195 Bremen
Germany

HOLDER

Inspirion GmbH
Zum Panrepel 39
Bremen
Germany

Exp. Patent- och registreringsverket
2004 -12- 2 0

REPRESENTATIVE

Blaum, Dettmers, Rabstein, Rechtsanwälte und Notare
Am Wall 153-156
D-28195 Bremen
Germany

DECISION

The Swedish Patent and Registration Office decides that the international registration 782509 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 INSPIRION, registered for hand-operated tools; garden tools for soil and plant treatment, in particular knives, shovels, rakes, shears, branch cutters, multifunctional tools; kitchen tools, in particular knives, forks, spoons, knife sets, steak knife sets, knife blocks; tools, in particular carpet knives, screwdriver sets, ratchet driver kit, fitted tool boxes, pliers, open-end spanner, ratchet drivers with add-ons of different sizes, multifunctional pocket tools, scissors for paper, scissors included in this class; pocket knives; manicure set cases, class 8, water wings; mobile phone holder, mouse pads; equipment for the reproduction of image and sound, in particular radio sets, portable radio sets with headphones, batteries, radio alarm clocks; photographic equipment, in particular cameras; binoculars; sunglasses; measuring instruments, in particular rulers, measurement tapes, temperature measuring instruments, hygrometers, meteorology stations; calculating machines, in particular pocket calculators, pocket data banks, pocket calculators with a ruler, desktop calculators, mouse pad calculator; swimming rings, class 9, clocks and chronometers, in particular watches, alarm clocks, travelling alarms clocks, wall clocks, table clocks, stop watches, world clocks; jewellery made out of precious metal, as well as in particular key rings, lighters, cases and containers, ashtrays, cups, napkin rings, class 14, office equipment, in particular writing utensils, stapling presses, phone directories, punchers, clip boards, paper clips, file card holder, letter opener, time management system (non-electronic) (diary), document folder, visiting card folder, rulers, paper clip holders, coloured

pencils, coloured chalk, wax crayons, markers, pencils, pencil sharpeners, geometry sets; visiting card cases; writing utensils containers, class 16, leather and leather imitations (included in this class) in particular belts, trunks and travelling bags, luggage tags, purses, kids purses, key cases, wallets, bags, attaché cases, suit bags, handbags, shoulder bags, vanity cases, belt bags, kid's bags, cotton bags and bags, briefcases, umbrellas; luggage belts, class 18, furniture; mirrors made out of wood, cork, reed, willow, pocket mirrors, picnic baskets made out of willow, newspaper racks, clothes-horse; head-rests; airbeds; CD racks, class 20, equipment and containers for kitchen and household, in particular cups, jars, stainless steel bottles, stainless steel thermos flasks, corkscrews, storage containers (not made out of metal); perfume flacons, brush containers, beach boxes (insulated, not made out of precious metal); shoe polish equipment, namely brushes and cloths; clothes brushes, bottle openers; chopsticks, class 21, hammocks, class 22, clothing, in particular pants, shirts, dresses, aprons, smocks, jeans, denim jackets, hosiery, braces, belts, sweat shirts, T-shirts, polo shirts; rain clothing of all kinds, capes, ponchos, jackets, coats; footwear; headgear, in particular peaked caps; hats, sun visors, baseball caps, class 25, sewing kits, class 26, beach mats, class 27, games, toys, in particular dolls, stuffed animals, balloons, spinning tops, jigsaw puzzles, board games, building blocks, games of skill, puzzles, travelling games, model vehicles, kites for kids, water toys, throwing toys, beach balls (inflatable), yoyos, rubber balls, toy bags, class 28, cigarette cutters, class 34.

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 mark(s) registered under the Madrid Protocol, IPIRION, reg. no. 728445, Article 14 par. 1, item 8 of the Swedish Trademark Act.
- The mark is confusingly similar to the Community Trademark(s), INSPIRON, reg. no. 592444, Article 14 par. 1, item 9 of the Swedish Trademark Act.

Date of decision 20 DEC 2004


Ann-Charlotte Ohlsson


Håkan Bodin

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 copies of confusingly similar trademark registrations.

GODKÄND LAGA KRAFT

Registeringsnummer:	728445	Registrerad hos WIPO:	1999-11-20
Ansökningsnummer:	728445	Designeringsdatum:	1999-11-20

IPIRION**Klassificering:**

- 9:** Apparatus for recording, transmitting and reproducing sound or images; magnetic recording media; data processing equipment and computers.
- 35:** Advertising via electronic media and more precisely via the Internet.
- 38:** Telecommunications; broadcasting and provision of information via telecommunication means (Internet).
- 42:** Computer programming, maintenance of computer software.

Prioritet:

Begärd från Schweiz, 1999-05-20, 466963

Innehavare:

CyberOffice International AG, Grafenauweg 6,, CH-6300 Zug, Switzerland

WIPO Ombud:

Red Cube International AG Bahnhofstrasse 10 CH-6300 Zug Switzerland

WIPO Korrespondensadress:

CyberOffice International AG, Grafenauweg 6,, CH-6300 Zug

Community Trademark 592.444 'INSPIRON'

Classes 9, 16

Registration published. Word.

Expiration date **2007.07.24**
Applicant **Dell Inc., One Dell Way, 78682-2244 Round Rock, Texas, US.**
Representative **ERIC POTTER CLARKSON, Park View House 58 The Ropewalk, NG1 5DD Nottingham, GB.**
Language of the application **<EN>, <FR>.**
Date of receipt at OHIM **1997.07.24.**

Goods & Services:

9 English Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus for recording, transmission and/or reproduction of sound and/or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines; fire-extinguishing apparatus; data processing equipment; computers; digital computers; computer peripherals; monitors; keyboards; printers; mice; co-processors; modems; hard and floppy disk drives; tape drives; cards and memory add-ons; memory boards and chips; cables and connectors; media for computers; computer software; computer programs; operating software; instruction manuals in electronic form; components, parts and fittings for all the aforesaid goods.

9 Swedish Vetenskapliga, nautiska, elektriska, fotografiska, kinematografiska och optiska apparater och instrument samt apparater och instrument för lantmäteri, besiktning, vägning, mätning, signalering, kontroll (övervakning), livräddning och undervisning; apparater för inspelning, upptagning, sändning och/eller återgivning av ljud och/eller bilder; magnetiska databärare, grammofonskivor; försäljningsautomater samt mekanismer för myntstyrda apparater; kassaapparater, räknemaskiner; eldsläckningsapparat; databehandlingsutrustning; datorer; digitala datorer; kringutrustning för datorer; bildskärmar; tangentbord; skrivare; musar; samprocessorer; modem; hårddiskenheter och diskettenheter; bandenheter; kort och minnespåbyggnader; minneskort och minneschips; kablar och kopplingar; medier för datorer; datorprogramvara; datorprogram; operativprogramvara; instruktionshandböcker i elektronisk form; delar och komponenter till alla tidigare nämnda varor.

16 English Instruction manuals.

16 Swedish Instruktionshandböcker.

Incidences

Act Date	Public.Date	Bulletin	
1997.07.24	1999.03.01	14/1999	APPLICATION
1999.08.13	1999.09.27	76/1999	REGISTER WITHOUT MODIFICATION

End of the application

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.