

**DECISION****International registration has no effect in Sweden**

IR 886840

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81925 München  
Germany**HOLDER**Hubert Burda Media Holding GmbH & Co. Kommanditgesellschaft  
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77652 Offenburg  
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81925 München  
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Exp. Patent- och registreringsverket

**2007 -12- 2 0****DECISION**

The Swedish Patent and Registration Office decides that the international registration 886840 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 HUBERT BURDA MEDIA, registered for computer and data processing machines, computer software, machine-readable data carriers of all kinds as well as carriers of sound recordings and image recordings, in particular floppy discs, CD-ROM's, DVD's, chip cards, magnetic cards, video cassettes, compact discs and video discs; information collections and data bases stored on data carriers; electronic publications (not downloadable), class 9, printed matter, journals, magazines, newspapers, books, bookbinding material, posters, stickers, calendars, signboards made of paper, models made of paper or cardboard, photographs, paper, cardboard, stationary, office requisites (except furniture), instructional and teaching material (except apparatus), included in this class, class 16, advertising, in particular TV advertising, online advertising in a computer network, radio advertising, advertising by mail order, outdoor advertising, print and Internet advertising; services of an advertising agency; renting of advertising space in the Internet (Webvertising); marketing research and analysis; Internet advertising for others; planning and creation of advertising measures; marketing, TV marketing; presenting of companies through the Internet and other media; distribution of samples, sales promotion, public relations, organizing advertising events; business management for others; systemization of information into computer databases; compilation of information into computer databases; services of a multimedia agency, namely presenting of companies through the Internet and through other media; e-commerce services, namely acceptance of orders and processing of invoices; auctioneering, also through the internet; renting of advertising space (Banner-exchange); arranging of contracts concerning the purchase and sales of goods for others,

arranging of contracts concerning services for others, included in this class, presenting of samples for advertising purposes; presenting of goods and services; arranging advertising live events; services of a network provider, namely negotiating of contracts for access time to data bases, class 35, telecommunication; dissemination of information to others; dissemination of information over wireless or wire-based networks; dissemination of radio programs; online services, namely dissemination of news and information of all kind; e-mail services (e-mailing); Internet services, namely the dissemination of information through the internet; each of the aforementioned included in this class; services of a network provider, namely rental of access time to data bases, class 38, publication and edition of printed matter, in particular newspapers, periodicals and books, as well as teaching and instructional material including recorded sound and image information also in electronic form; online publication of electronic books and periodicals (not downloadable); services of a sound and TV recording studio, namely production of sound and image recordings on sound and image carriers; showing and rental of sound and image recordings; producing TV and radio programs; composing TV and radio programs; entertainment, in particular radio and TV entertainment; arranging entertainment events, cultural, sporting and live events; conducting training events, conducting educational events and cultural and sporting activities, included in this class; providing of electronic publications (not downloadable); online publication of electronic books and magazines, class 41 and writing and design of programs for data processing (computer software); maintenance and updating of computer software as well as online updating service for software; research and development in the area of data processing; drafting, developing and consultancy in the area of computer systems; IT consultancy; configuring of computer networks by means of software; writing, design and installation of Internet presences; concept making and maintenance of Internet content; preparing documentations while coaching Internet appearances editorially, class 42.

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

#### GROUND FOR REFUSAL

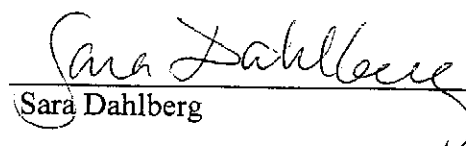
An obstacle to admitting effect in Sweden exists according to Article 54 par. 2 of the Swedish Trademark Act if the trademark referred to in the international registration does not fulfil the requirements under Article 13 or if an obstacle to a national registration would have existed according to Article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

- The mark is confusingly similar to the national mark(s), BURDA, reg no 131608 and BURDA, reg no 221582, Article 14 par. 1, item 6 of the Swedish Trademark Act.

Date of decision **20 DEC 2007**



Sara Winther



Sara Dahlberg

An appeal shall be lodged with the Court of Patent Appeals (Patentbesvärsträtten) 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.*

**REGISTRERAD**

<b>Registreringsnummer:</b>	131608	<b>Registreringsdatum:</b>	1970-05-29
<b>Ansökningsnummer:</b>	1901/31608	<b>Ingivningsdatum:</b>	1900-01-01

**BURDA**

**Klassificering:**

- 16:** Tryckalster, speciellt tidningar, tidskrifter, illustrerade tidsskrifter, modetidskrifter, handarbetshäften, mönster, mönsterark, räknemönster, överföringsmönster, fotografier, fotografiska trycksaker, fotogravyrer.
- 25:** Dam-, herr- och barnkläder.

**Innehavare:**

Verlag Aenne Burda GmbH & Co., Am Kestendamm 2, D-7600 OFFENBURG, Tyskland

**Ombud:**

BRANN AB, Box 17192, 104 62 STOCKHOLM, Sverige,  
Org.nr: 556483-6210

## REGISTRERAD

**Registeringsnummer:** 221582      **Registreringsdatum:** 1991-03-08  
**Ansökningsnummer:** 1988/09402      **Ingivningsdatum:** 1988-11-03  
**Figurklasser:** 25.07.20; 26.05.12; 26.11.09; 26.11.13

**Beskrivning:**

Märket är utfört på blå botten med vit text och svart figur.

**Klassificering:**

**35:** Annons- och reklamverksamhet.

**41:** Undervisning, utbildning och underhållning; publikation och utgivning av trycksaker, tidningar, tidskrifter och böcker såväl som av instruktions- och informationsmaterial innefattande lagrad audio- och videoinformation; produktion av audio- och videoinspelningar samt audio- och videobärare; projektering och uthyrning av audio- och videoinspelningar, signalbärare av lagrad audio- och videoinformation samt av audio- och videoskivor, -band och -kassetter.

**Innehavare:**

BURDA GMBH, HAUPTSTRA. 130, 7600 OFFENBURG, Tyskland

**Ombud:**

Awapatent Aktiebolag, Box 5117, 200 71 MALMÖ, Sverige,  
Org.nr: 556082-7023

## 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. ---

**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.