

**International registration has no effect in Sweden**

IR 827830

Exp. Patent- och registreringsverket

2009-03-26

Garrigues Agencia de Propiedad Industrial e Intelectual, S.L.

José Abascal, 45

E-28003 Madrid

Spain

**HOLDER**

Pascual Ros Aguilar

Partida Algoda, P-2, N. 37 Elche

E-03280 Alicante

Spain

**REPRESENTATIVE**

Garrigues Agencia de Propiedad Industrial e Intelectual, S.L.

José Abascal, 45

E-28003 Madrid

Spain

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**DECISION**

The Swedish Patent and Registration Office decides that the international registration 827830 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 SIXTYSEVEN BY MUSTANG, see below, registered for ready-made clothing for men, women and children and footwear (except orthopaedic footwear), headgear, class 25.

sixtyseven  
by mustang

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.

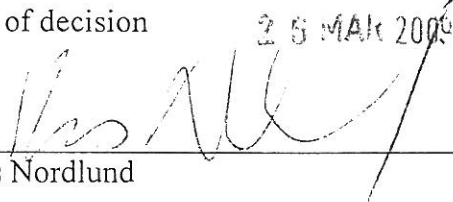
The mark is confusingly similar to the national mark(s), MUSTANG, reg no 365561, Article 14 par. 1, item 6 of the Swedish Trademark Act.


The mark is confusingly similar to the mark(s) registered under the Madrid Protocol, MUSTANG, reg no 484304, MUSTANG, reg no 590588, MUSTANG, reg no 602643, MUSTANG, reg no 657694 and MUSTANG, reg no 783602, Article 14 par. 1, item 8 of the Swedish Trademark Act.

The mark is confusingly similar to the Community Trademark(s), MUSTANG, reg no 357178, Article 14 par. 1, item 9 of the Swedish Trademark Act.

Date of decision

25 MAR 2006

  
Hans Nordlund

  
Lena Thörnros

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.*

## REGISTRERAD

**Registreringsnummer:** 365561      **Registreringsdatum:** 2004-02-20  
**Ansökningsnummer:** 2003/01525      **Ingivningsdatum:** 1997-01-03

# MUSTANG

**Klassificering:**

**25:** Skor, med undantag av sportskor.

**Innehavare:**

MUSTANG - Bekleidungswerke GmbH. + Co. KG, Austrasse 10, DE-74653 KÜNZELSAU, Tyskland

**Ombud:**

Gotapatent Aktiebolag, Box 154, 561 22 HUSKVARNA, Sverige,  
Org.nr: 556129-9768

## GODKÄND LAGA KRAFT

<b>Registreringsnummer:</b>	484304	<b>Registrerad hos WIPO:</b>	1984-03-28
<b>Ansökningsnummer:</b>	484304	<b>Designeringsdatum:</b>	2001-07-14

# MUSTANG

**Klassificering:**

**25:** Footwear, with the exception of sports and gymnastic shoes or shoes used in connection with equestrian sport.

**Innehavare:**

MUSTANG - Bekleidungswerke GmbH. + Co. KG, Austrasse 10, 74653 Künzelsau, Germany

**Ombud:**

Gotapatent Aktiebolag, Box 154, 561 22 HUSKVARNA, Sverige,  
Org.nr: 556129-9768

**WIPO Ombud:**

Beyer & Jochem Patentanwälte Klettenbergstrasse 13 D-60322 Frankfurt Germany

GODKÄND LAGA KRAFT

**Registreringsnummer:** 590588      **Registrerad hos WIPO:** 1992-09-02  
**Ansökningsnummer:** 590588      **Designeringsdatum:** 1996-09-18  
**Figurklasser:** 27.05.01

# MUSTANG

**Klassificering:**

- 14:** Jewelry; clocks and watches.
- 16:** Paper and goods made from paper, cardboard and goods made from cardboard, and not included in other classes; printed matter; photographs; stationery, artists' materials, namely, articles for drawing, painting and modelling; paintbrushes; instructional and teaching material (except apparatus); playing cards.
- 18:** Leather and imitation leather and goods made of these materials and not included in other classes; trunks and travelling bags; umbrellas, parasols and walking sticks; saddlery.
- 25:** Clothing, footwear, headgear.
- 28:** Games and playthings; gymnastic and sporting articles not included in other classes with the exception of golf gloves, golf clubs and golf bags; and with the exception of stationary exercise bicycles.

**Innehavare:**

MUSTANG - Bekleidungswerke GmbH. + Co. KG, Austrasse 10, 74653 Künzelsau, Germany

**Ombud:**

Gotapatent Aktiebolag, Box 154, 561 22 HUSKVARNA, Sverige,  
Org.nr: 556129-9768

**WIPO Ombud:**

Beyer & Jochem Patentanwälte Klettenbergstrasse 13 D-60322 Frankfurt Germany

GODKÄND LAGA KRAFT

Registreringsnummer: 602643      Registrerad hos WIPO: 1993-05-13  
Ansökningsnummer: 602643      Designeringsdatum: 2002-07-05  
Figurklasser: 03.03.01



**Klassificering:**

- 18:** Goods made of leather or imitation leather, namely bags and small leather goods, in particular purses, wallets, key cases; handbags, shopping bags, travelling sets all these goods not used in connection with sport, equestrian sport or golf.
- 25:** Clothing, in particular clothing of leather, anoraks, jeans, trousers, jackets, jumpers, shirts, t-shirts, neckscarves, woolly hats, ties, shoes, belts for clothing, all these goods not used in connection with sport, equestrian sport or golf.

**Innehavare:**

MUSTANG - Bekleidungswerke GmbH. + Co. KG, Austrasse 10, 74653 Künzelsau, Germany

**Ombud:**

Gotapatent Aktiebolag, Box 154, 561 22 HUSKVARNA, Sverige,  
Org.nr: 556129-9768

**WIPO Ombud:**

Beyer & Jochem Patentanwälte Klettenbergstrasse 13 D-60322 Frankfurt Germany

## GODKÄND LAGA KRAFT

**Registreringsnummer:** 657694      **Registrerad hos WIPO:** 1996-02-21  
**Ansökningsnummer:** 657694      **Designeringsdatum:** 1997-03-01  
**Figurklasser:** 27.05.01

# MUSTANG

**Klassificering:**

- 9:** Phonograph records, compact discs, music and video cassettes, optical and magnetic media for images and sound; sound and image reproduction apparatus; apparatus for entertainment purposes in the form of accessory parts for television set receivers; automated devices for entertainment; computers for computer games; computer games as accessory apparatus for television set receivers; printing optical and magnetic media; data storage media, including printed matter and computer programs, especially computer game programs; electronic journals, training or teaching material (except apparatus) in the form of computer game programs, films and sound, text, and image recordings on data media.
- 14:** Objects made of precious metals, their alloys or coated therewith, namely handicrafts, ornamental objects, tableware (except cutlery), table centrepieces, ashtrays, cigar and cigarette cases, cigar and cigarette holders; jewelry, precious stones; fashion jewelry, cuff links, tie pins.
- 16:** Paper, cardboard; paper and cardboard products, namely packaging containers, packaging pouches, pocket handkerchiefs, towels, table napkins; printed matter, newspapers, photographs, stationery; training or teaching material (except apparatus) in the form of printed matter and games.
- 18:** Goods made of leather and imitations of leather, namely handbags and other cases not adapted to the products which they are to contain as well as small leather items, especially purses, pocket wallets, key cases, labels; shopping bags, sports bags, briefcases, school bags, rucksacks, trunks and suitcases, umbrellas and lawn umbrellas.
- 24:** Fabrics, textile fabrics, curtains, blinds, household linen, table and bed linen; table and bed covers; textile handkerchiefs; fabrics of imitation animal skins and non-woven textile fabrics.
- 25:** Clothing, corsetry articles, sportswear; leather clothing, belts (clothing), shoe wear, sports shoes, headwear.
- 26:** Lace and embroidery, ribbons and braid, buttons, hooks and eyes, pins and needles, zippers, belt clasps; top-knots (passmenterie); artificial flowers.
- 28:** Games, toys; electric and electronic games; electronic games (other than those adapted for use with television receivers only); gymnastic and sporting apparatus; special bags for sporting articles.
- 32:** Beer, mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices.
- 38:** Broadcasting of radio and television programs; broadcasting of entertainment programs, texts, images and music via transmission sets and communication networks; transmission of sound, images, texts, data and computer programs via satellite, radio, data networks and cable systems.
- 41:** Film production, rental and projection of motion-picture films; production of radio and television broadcasts; planning of entertainment events, namely musical performances, literary readings, theatre performances, art exhibitions; publishing and editing of books, newspapers and journals; organisation of cultural exhibitions.
- 42:** Restaurant and catering services; programming, especially in relation to computer game and data processing programs; leasing access time to a computer data base.

**Innehavare:**

MUSTANG - Bekleidungswerke GmbH. + Co. KG, Austrasse 10, 74653 Künzelsau, Germany

**Ombud:**

Gotapatent Aktiebolag, Box 154, 561 22 HUSKVARNA, Sverige,  
Org.nr: 556129-9768

**WIPO Ombud:**

Beyer & Jochem Patentanwälte Klettenbergstrasse 13 D-60322 Frankfurt Germany

## GODKÄND LAGA KRAFT

<b>Registreringsnummer:</b>	783602	<b>Registrerad hos WIPO:</b>	2002-06-15
<b>Ansökningsnummer:</b>	783602	<b>Designeringsdatum:</b>	2002-06-15

## Mustang

**Klassificering:**

- 14:** Watches, jewellery, cuff links, tie pins; goods of precious metal and their alloys or goods coated therewith, namely handicraft objects, decorative objects.
- 25:** Clothing, including knitted clothing, with the exception of sports clothing; hosiery, with the exception of hosiery for sports; shoes, boot slippers, with the exception of sports shoes; headgear, with the exception of headgear for sports.

**Prioritet:**

Begärd från Tyskland, 2001-12-21, 301 72 988.3/25

**Innehavare:**

MUSTANG - Bekleidungswerke GmbH. + Co. KG, Austrasse 10, 74653 Künzelsau, Germany

**Ombud:**

Gotapatent Aktiebolag, Box 154, 561 22 HUSKVARNA, Sverige,  
Org.nr: 556129-9768

**WIPO Ombud:**

Beyer & Jochem Patentanwälte Klettenbergstrasse 13 D-60322 Frankfurt Germany



## CTM-ONLINE - Detailed trade mark information



Trade mark name : MUSTANG  
Trade mark No : 000357178  
Trade mark basis: CTM  
Number of results: 1 of 1



### Trade mark

Filing date: 03/01/1997  
Date of registration: 06/02/2003  
Expiry Date: 03/01/2017  
Nice Classification: 14, 18, 25 ( [↔](#) Nice classification)  
Trade mark: Individual  
Type of mark: Word  
Acquired distinctiveness: No  
Applicant's reference: HRM 62938 EU  
Status of trade mark: Cancellation pending ( [↔](#) Glossary )  
( [↔](#) History of statuses )  
Filing language: German  
Second language: English

### Graphic representation

No entry for application number: 000357178.

### + List of goods and services

**Nice Classification:** 14  
**List of goods and services** Goods of precious metals and their alloys or coated therewith, namely craft objects, decorative objects, tableware (except cutlery), table bases, ashtrays, cigar and cigarette cases, cigar and cigarette holders; jewellery, precious stones; fashion jewellery, cuff links, tie pins.

**Nice Classification:** 18  
**List of goods and services** Goods of leather and imitations of leather, namely bags and other containers not suitable for carrying objects, and small goods of leather, in particular purses, pocket wallets, key wallets, leather labels; hand bags, shopping bags, sports bags, briefcases, school satchels, rucksacks, trunks and travelling bags, umbrellas and parasols.

**Nice Classification:** 25  
**List of goods and services** Clothing, corsets, sportswear, clothing of leather, belts, headgear.

### Description

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

### Owner

**Name:** MUSTANG - Bekleidungswerke GmbH. + Co. KG  
**ID No:** 151875  
**Natural or legal person:** Legal entity  
**Address:** Austr. 10  
**Post code:** 74653  
**Town:** Künzelsau  
**Country:** GERMANY  
**Correspondence address:** MUSTANG - Bekleidungswerke GmbH. + Co. KG  
Postfach 12 64 D-74642 Künzelsau ALEMANIA  
**Telephone:** 00 49-79401250  
**Fax:** 00 49-7940125102

#### Representative

**Name:** BEYER & JOCHEM  
**ID No:** 14140  
**Address:** Klettenbergstr. 13  
**Post code:** 60322  
**Town:** Frankfurt am Main  
**Country:** GERMANY  
**Correspondence address:** Patentanwälte BEYER & JOCHEM Postfach 18 02 04 D-  
60083 Frankfurt am Main ALEMANIA  
**Telephone:** 00 49-69723074  
**Fax:** 00 49-69727550  
**E-mail:** [jopat@t-online.de](mailto:jopat@t-online.de)

#### Seniority

No entry for application number: 000357178.

#### Exhibition priority

No entry for application number: 000357178

#### Priority

No entry for application number: 000357178.

#### Publication

**Bulletin no.:** 1998/067  
**Date of publication:** 07/09/1998  
**Part:** A.1


**Bulletin no.:** 2003/035  
**Date of publication:** 28/04/2003  
**Part:** B.2

**Bulletin no.:** **2007/006**  
**Date of publication:** 12/02/2007  
**Part:** D.1

#### Opposition

**Opposition No:** 000110660  
**Reception date:** 03/12/1998  
**Opponent name:** Ros AguilarPascual  
**Opponent ID No:** 35448

#### Cancellation

**Cancellation No:** 000002416 (  Cancellation decision database)  
**Type of cancellation request:** Cancellation based on invalidity  
**Date of filing of cancellation** 27/08/2007

**application:**  
**Name of applicant for cancellation:** Pascual Ros Aguilar  
**ID N° of applicant for cancellation:** 35448  
**Nationality of applicant for cancellation:** ES  
**Representative's name:** Carlos Lema Devesa  
**Representative's ID No:** 39308

#### ⊕ Appeals

**Appeal number:** R0027/2000-2  
**Date of receipt:** 11/01/2000  
**Appellant name:** Pascual Ros Aguilar  
**Appellant number:** 35448

#### Recordals


**Title:** Application for revocation and declaration of invalidity  
**Sub-title:** Application for revocation  
**ID No:** 002752882

#### Renewals

**Expiry Date:** 03/01/2017  
**Status of renewal:** Renewed  
**Type of renewal:** Total

#### History of status [\(Glossary\)](#)

	<b>Status date</b>
Renewed	04/02/2007
Renewal fee paid	31/01/2007
Renewal request received	15/01/2007
Need to renew communicated	11/06/2006

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Disclaimer, and Copyright I

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

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**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.

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**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.

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**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.

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**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.