

DECISION

International registration has no effect in Sweden

IR 936247

Braunpat Braun Eder AG
Reussstrasse 22
CH-4054 Basel
Switzerland

HOLDER

Clariant AG
Rothausstrasse 61
CH-4132 Muttenz
Switzerland

REPRESENTATIVE

Braunpat Braun Eder AG
Reussstrasse 22
CH-4054 Basel
Switzerland

Exp. Patent- och registreringsverket
2009-04-15

DECISION

The Swedish Patent and Registration Office decides that the international registration 936247 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 CLARIANT, see below, registered for chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; fertilizers; fire-extinguishing compositions; flame retardants; metal tempering and soldering preparations; chemical substances for preserving foodstuffs; antioxidants; tanning substances; adhesives for industrial use; agents for preserving bricks (excluding paints and oils used for coating), cement, concrete and masonry; brake fluids; chemical additives for fuels; anti-freeze; anti-freeze agents for use on roads and other surfaces exposed to ambient air; chemical preparations for the manufacture of pigments; grease-removing preparations for use in manufacturing processes; organic-bleaching chemicals; synthetic polymers for industrial, pharmaceutical and medical use, class 1, colours, varnishes, lacquers; wood sheathings; pigments and pigmented preparations; colorants and dyestuffs included in this class; printing inks; printing toner (black) for photocopying machines; colorants and colorant-based preparations containing pigments and a substrate; food and beverage colorants, colorants for cosmetics, rust removing agents, coating agents to protect metals from tarnishing and corrosion inhibiting agents; wood preserving agents, mordants, unprocessed natural resins; priming paints; protective agents for metals; organic, inorganic and synthetic colorants; metal foils and metallic powders for use by painters, decorators, printers and artists; aluminum oxide coatings (included in this class); textile dyes, class 2, detergents, active washing preparations included in this class; bleaching preparations, cleaning, polishing,

scouring and abrasive preparations, corundum, soaps (all the aforementioned agents intended for industrial technical use); colour-removing preparations; perfumery, essential oils, bodycare preparations, beauty preparations and non-medical hair products, dental products; cosmetic suncare products; cosmetics; hair dyes; washing bases as part of all the aforementioned preparations; plant extracts as raw materials for the cosmetics industry; coatings for smoothing and improving a rough substrate (included in this class), particularly for car bodies, class 3, products made of semi-processed plastics, particularly plastic granules and plastic pellets; plastic fibres for non-textile use; packing, stopping and insulating materials; flexible hoses (not made of metal); plastics for use in manufacturing operations and for laminated plastics (semi-finished products); joint packing putty (semi-finished products), artificial and synthetic resins; plastic films other than for packaging; fibreglass fabrics for insulation, class 17, advertising; sponsoring; business management; business consultancy and management services; information research and business-related research; computer management of data files and data banks; services in connection with a databank, namely the collection, organization and systematization of data; electronic commerce services, namely the presentation of goods and the facilitation (also by electronic means) of orders and providing information on goods via telecommunications networks, for advertising and business purposes; online provision of information on a selection of goods via a global computer network; administrative processing of orders and data relating to various goods in the areas of advertising and sales; wholesale trading, namely the regrouping of different goods (excluding the transport thereof) for third parties, to facilitate consumers' ability to view and purchase these goods from a wholesaler; marketing and public relations services; drawing up of cost and price-analyses; publication of statistics for advertising purposes; procurement of business know-how; organisation and management of fairs and exhibitions for economic and advertising purposes; business consultancy in the field of plastics technology (included in this class), class 35, telecommunications services, data transfer services, telephone services, remote data access services (telecommunications services); computer-assisted reception and transfer of documents and images; data transfer (messaging); provision of telecommunication connections to a global computer network; data collection, supply and transfer; provision of access to data banks; provision of access to electronic shops (telecommunications); provision of electronic mail services (e-mail); provision of messaging services (chatrooms) for the transfer of information among users online; services relating to inter-computer communication, to electronic messages and electronic purchases, namely the electronic transfer of data and information relating to sales; services in connection with a data bank, namely the transfer of specific data on goods and of data on orders, production and transport relating to the commercial use of chemical, pigment and colorant preparations and of other preparations, class 38, consulting on environmental protection, namely advice on waste recycling, waste processing and elimination, waste and waste-water treatment, class 40, design and development of computer programs; consultancy relating to computer software; installation, integration and maintenance of computer programs; services in the field of technology and relevant development services; industrial analyses; testing and research services; technical, scientific and configuration services; chemist services, chemical engineer services, chemical laboratory services; technical consultation in the area of chemistry and chemical engineering, particularly consultancy relating to the implementation of production processes in technical installations; consultancy in the area of chemistry and technique, namely in the area of colour analysis, colour coordination and standardization; scientific consultancy and research services relating to the industrial use of chemicals, paints, dyestuffs, pigments and colorants; technical consulting in the area of textile finishing; technical consultancy (franchising services); design, installation, maintenance, updating of computer software specifically for customers in the area of the

industrial use of chemical preparations, paints, dyestuffs, pigments and colorants; research in the field of environmental protection; consultancy on environmental protection, namely, consultancy on the effects that manufacturing processes and chemical preparations and paints used in manufacturing procedures have on the environment (included in this class); consultancy on energy-saving issues; development of new products, class 42 and issuing of computer software licenses (legal services), issuing of licences for commercial protective rights, allocation of rights to use commercial protective rights (franchising), class 45.



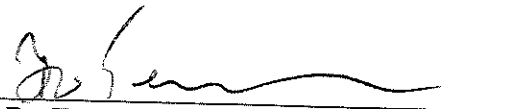
The holder has not requested a review of the provisional refusal within the time limit.

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 Swedish trade names, 1) CLARIANT (SVERIGE) AKTIEBOLAG (org no 556025-6652). 2) CLARIANT (SVERIGE) HOLDING AB (org no 556690-0998), 3) CLARIANT MASTERBATCHES NORDEN AKTIEBOLAG (org no 556393-1020), Article 14 par. 1, item 6 of the Swedish Trademark Act.

Date of decision 15 APR 2009


Bo Tennemar


Anita Ahlstrand

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.



Näringslivsregistret - Verksamhet/ändamål

Sökvärde: 556025-6652

Uttagen 2009-03-27 kl 11:20

Organisationsnummer: 556025-6652
Företagsnamn (firma): Clariant (Sverige) Aktiebolag
Företagsform: Aktiebolag
Företagsstatus:
Antal ärenden under handläggning: 0

Verksamhet

Bolagets verksamhet består i att idka försäljning och distribution av färger, pigment och kemikalier huvudsakligen till pappers-, textil-, färg-, plast och kemikalieindustrin och därmed förenlig verksamhet.

Tidigare verksamhet Alla verksamheter

Bolagsverket, 851 81 Sundsvall • Telefon: 060-18 40 00 • bolagsverket@bolagsverket.se • www.bolagsverket.se



Näringslivsregistret - Grundinformation företag

Sökvärde: 556025-6652

Urtagen 2009-03-27 kl 11:20

Organisationsnummer: 556025-6652
Företagsnamn (firma): Clariant (Sverige) Aktiebolag
Företagsform: Aktiebolag
Företagsstatus:
Antal ärenden under handläggning: 0

Bolagsegenskaper

Detta är ett privat aktiebolag

Bildat: 1927-02-26
Registrerat: 1927-03-07
Räkenskapsår: 0101-1231

Adress, säte, registreringslän

c/o-adress:

Adress: Box 5415
Postnummer: 402 29
Ort: GÖTEBORG
Land:
Säte län: Västra Götalands län
Säte kommun: Mölndal kommun
Namnet registrerat: 1999-01-26

Föreskrifter

Typ av föreskrift: Bolagsordning
Senast ändrad: 2003-12-10

Förbehåll, avvikelser

Inga förbehåll eller avvikelser finns registrerade.

Kallelse, tid för stämma

Kallelsetext: Kallelse sker genom brev med posten eller annan

bevislig delgiv-
ning med envar aktieägare.

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Näringslivsregistret - Verksamhet/ändamål

Sökvärde: 556690-0998

Uttagen 2009-03-27 kl 11:20

Organisationsnummer: 556690-0998
Företagsnamn (firma): Clariant (Sverige) Holding AB
Företagsform: Aktiebolag
Företagsstatus:
Antal ärenden under handläggning: 0

Verksamhet

Bolaget skall äga och förvalta aktier, andelar och värdepapper, tillhandahålla administrativa och finansiella tjänster samt idka därmed förenlig verksamhet.

Tidigare verksamhet Alla verksamheter

Bolagsverket, 851 81 Sundsvall • Telefon: 060-18 40 00 • bolagsverket@bolagsverket.se • www.bolagsverket.se



Näringslivsregistret - Grundinformation företag

Sökvärde: 556690-0998

Urtagen 2009-03-27 kl 11:20

Organisationsnummer: 556690-0998
Företagsnamn (firma): Clariant (Sverige) Holding AB
Företagsform: Aktiebolag
Företagsstatus:
Antal ärenden under handläggning: 0

Bolagsegenskaper

Detta är ett privat aktiebolag

Bildat: 2005-10-24
Registrerat: 2005-11-10
Räkenskapsår: 0101-1231

Adress, säte, registreringslän

c/o-adress:
Adress: Box 5415
Postnummer: 402 29
Ort: GÖTEBORG
Land:
Säte län: Västra Götalands län
Säte kommun: Mölndal kommun
Namnet registrerat: 2006-01-25

Föreskrifter

Typ av föreskrift: Bolagsordning
Senast ändrad: 2006-01-06

Förbehåll, avvikelser

Inga förbehåll eller avvikelser finns registrerade.

Kallelse, tid för stämma

Kallelsetext: Kallelse sker genom brev med posten eller e-mail.



Näringslivsregistret - Verksamhet/ändamål

Sökvärde: 556393-1020

Uttagen 2009-03-27 kl 11:21

Organisationsnummer: 556393-1020
Företagsnamn (firma): Clariant Masterbatches Norden Aktiebolag
Företagsform: Aktiebolag
Företagsstatus:
Antal ärenden under handläggning: 0

Verksamhet

Bolaget skall bedriva tillverkning och handel inom plast- och kemibranschen samt idka därmed förenlig verksamhet.

Tidigare verksamhet Alla verksamheter

Bolagsverket, 851 81 Sundsvall • Telefon: 060-18 40 00 • bolagsverket@bolagsverket.se • www.bolagsverket.se



Näringslivsregistret - Grundinformation företag

Sökvärde: 556393-1020

Urtagen 2009-03-27 kl 11:21

Organisationsnummer: 556393-1020
Företagsnamn (firma): Clariant Masterbatches Norden Aktiebolag
Företagsform: Aktiebolag
Företagsstatus:
Antal ärenden under handläggning: 0

Bolagsegenskaper

Detta är ett privat aktiebolag

Bildat: 1990-03-29
Registrerat: 1990-04-10
Räkenskapsår: 0101-1231

Adress, säte, registreringslän

c/o-adress:

Adress: Box 9053
Postnummer: 200 39
Ort: MALMÖ
Land:
Säte län: Skåne län
Säte kommun: Malmö kommun
Namnet registrerat: 2000-08-23

Föreskrifter

Typ av föreskrift: Bolagsordning
Senast ändrad: 2000-05-15

Förbehåll, avvikelser

Avvikelser avseende rösträtt: Ja

Kallelse, tid för stämma

Kallelsetext: Kallelse sker genom brev med posten.

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.