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## BESLUT

**Internationell registrering skall inte gälla i Sverige**  
IR 814322

Advokatbyrån Gulliksson Aktiebolag  
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203 13 Malmö

### INNEHAVARE

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### BESLUT

Patent- och registreringsverket (PRV) beslutar med stöd av 56 § 2 stycket varumärkeslagen (1960:644) att den under ovanstående nummer angivna internationella registreringen inte skall gälla i Sverige.

### ÄRENDET

Ärendet avser giltighet i Sverige av den internationella varumärkesregistreringen BAUHAUS, se nedan, registrerad för soil fertilizers; potting composts for plants and flowers; plant strengthening substances; peat; growing substrates, bark products for plants; ground bark fertilizers; compost; chemicals used in agriculture, horticulture and forestry, including biological preparations in the form of powder dusting for vegetables; humus; chemicals for plant upkeep (except fungicides, herbicides and vermin-destroying products); leaf shine products; soil-improving chemicals; chemical products for industrial use; casting resins and molded resins not included in other classes; silicone pastes; silicone rubber; concrete melters and concrete covering products not included in other classes; binding chemicals for concrete (except paints); damp-proofing products for buildings not included in other classes; metal soldering preparations; adhesives used in industry; solvents for varnishes, klass 1, paints, varnishes, lacquers; varnish thinners; glazes; varnishing products; paint binders and thinners; filling compounds (paints); antirust agents; preservatives against deterioration of wood; oil-based care products for wood; wood paints (particularly wood coatings, paints, lacquers); dyestuffs; mordants, klass 2, partitions for shower cubicles and for bathtubs made of metal or mainly of metal combined with synthetic materials; raw metals, partly treated with their alloys; horseshoes; steel balls; safes and chests; decorated sheet metal and moldings of metal; metal nails and screws; chains (excluding propulsion chains for vehicles); metal, laminated and cast structural members; non-electrical metallic cables and wires; metal components used in locksmithing and ironmongery; metal pipes; shaped sections, sheet metals and molds of metal mainly of aluminum; metallic collars for

sanitary installations; metallic oil and grease cans (for machines); decorative metallic panels for ceilings and walls; non-mechanical metallic reels for irrigation hoses; window locks; racks for license plates, klass 6, power drills; machines for working metal, wood and plastics; electrical dust-removing apparatus and dust separators; electrically operated vacuum cleaning appliances; machines for the agricultural industry and mechanical agricultural tools; fountain pumps; grass extractors; submersible pumps; garden rollers; sprinkler pumps (for gardens); garden water pumps; power machines and apparatus for agricultural and gardening purposes, particularly pruning scissors, tree saws, hedge trimmers, lopping shears, garden shears, lawn trimmers, insecticide spray guns, grass shears for inaccessible corners, various lawn cutters, bush saws, scrub cutters for lawns, lawnmowers; construction machinery; lifting jacks (machine tools); lifting devices, planing machines; construction machines, particularly circular saws, sharpening and cutting devices; construction tools, machines and implements; wheeled concrete mixers; compressors (machines); lubricators; electric motors and engines; electricity generators; garage door operating apparatus; blowing apparatus; motor-driven tools; electrical kitchen machines and implements not included in other classes; power apparatus for stapling and nailing; caulking guns; polishing machines; electric starters; electrical spraying devices; electric sanders; planers and spare planer blades; electric saws and tools, especially single-hand sanders, finishing sanders, belt sanders, two-tray grinding machines, right angle grinders; electric drills; powered machine tools for diy; spray guns for paint; floor polishers; electrical flax-yarn stitching machines; household appliances included in this class; power tools particularly saws, drills and drilling machines; drilling and screwing machines, screw driving machines, trueing machines, planing machines, parts of and accessories for all the above products, namely supports and tables for machines, particularly drill stands and saw tables; current generators; electric high-pressure cleaning apparatus; electric apparatus for aspirating liquids and mud; electric cleaning appliances for home use, particularly vacuum cleaners and vacuum-cleaner parts, mechanical polishers, steam cleaning appliances, high pressure cleaners and foam and liquid extractors; elevator platforms; suspended transport belts; mechanical spools (reels) for irrigation hoses; aprons for car radiators, klass 7, hand-operated hand tools, particularly saws, gimlets and borers; saw filers, planes, screwdrivers, wrenches (tools), wrench boxes, hammers, pliers and nippers, files, spatulas (tools), tools for laying ceramic and faïence tiles; vises, screw clamps, parts of the aforementioned products; hand-operated instruments for agriculture, horticulture and forestry; flour (filler) spindles; hand-operated tools and instruments for agriculture and gardening, particularly pruning scissors, tree saws, hedge trimmers, lopping shears, garden shears, lawn trimmers, insecticide spray guns, grass shears for inaccessible corners, various lawn cutters, bush saws, scrub cutters for lawns, lawnmowers; hand tools for gardening, particularly onion and flower bulb planters, spades, shovels, pickaxes, rakes, grubbers (for agriculture), scarifiers, forks (tools), saws, hand shovels, hand weeders, flower rakes, shears, sickles; scarifying tools; hand-operated instruments for the construction sector; lifting jacks (hand operated), hand tools for laying ceramic tiles; hand-operated hand tools, particularly shears, knives, saws, axes, spades, hand sanders, open-end wrenches and monkey wrenches, planes, single-hand sanders; hand tools and implements, especially tools of steel, such as hammers, screwdrivers, wrenches, pliers; hand drills; hand apparatus for nailing and stapling; electric or manual hair clippers and scissors for hairdressers; cutlery, forks and spoons, nutcrackers; tire stud pullers; electric hair clippers and scissors for hairdressers; cold welding apparatus (hand operated) and cold soldering irons (hand operated) not included in other classes, klass 8, apparatus and instruments for heavy current engineering, namely apparatus and instruments for distribution, transformation, storage, regulation and control; electric welding apparatus; electric accumulators; charging units for electric accumulators; fuses; (electric) monitoring

and control apparatus; welding electrodes; timer switches; resistance welding apparatus and electric arc lamps; thermostats; electrical conduit connectors; electric welding apparatus and soldering irons; electric cables, conductors and connection junctions, switches and panels, junction boxes; electric irons; electric wiring material, especially cables for antennas (precut and in bulk), plugs, couplings, insulating sheaths, electrical outlets, electric casings, light dimmers, fastening terminals, fuses, terminal blocks (jacks or insulating screw joints), switches; testing units, multimeter controllers; light current engineering apparatus and instruments, namely apparatus and instruments for telecommunications, for high-frequency and regulating techniques; image and sound media, particularly tapes, records, diskettes and films providing purchasers with optical, visual and/or acoustic information regarding the products they are buying; electric door chimes; intercoms; electric door openers; radio and television sets; signal bells (warning devices); electric bells; receivers used in the telephone industry, telephones and instruments with dials, telephone answering machines, video surveillance installations; audio and video cassettes; electric ringing alarms; fire extinguishers, fire alarms; electric anti-theft and alarm systems; electric testing units and controllers; multimeter controllers for testing electrical conductors; temperature testing units and controller thermometers (excluding medical thermometers); spectacle cases; scientific apparatus and instruments, particularly barometers; electric batteries; garage door operating systems; protective goggles; protective gloves; fiber-optic bands, fiber-optic batts, not included in other classes; protective shoes, class 9, barbecue grills; barbecues (appliances); lighting apparatus; electric lamps; luminaires; flashlights; warning blinkers; gas lamps; de-icing lamps; defrosting lamps; lighting installations, especially bulbs and fluorescent tubes; Christmas tree lights; heating apparatus; radiators; apparatus for heating water, such as continuous-flow water heaters, inlet-control water heaters and storage water heaters; apparatus for heating and preparing hot water and necessary equipment; electrical foot warmers; apparatus and installations using sun light to produce thermal energy; cooking apparatus; electrical cooking apparatus; electrical immersion heaters; electric coffeemakers; plumbing fixtures for use with gas; gas cooking rings; cooling apparatus; air cooling devices; drying apparatus; hair driers; air driers; ventilation apparatus; air purification apparatus; fans; air humidifiers; humidifiers; air-conditioning apparatus and installations; water distribution apparatus; indoor fountains; fountain pools; fittings for fountains; sanitary installations; valves and fittings for flexible hoses; traps made primarily of metal; upright and wall stacks for sanitary installations; mixing valves and their adjusting devices; sanitary installation equipment, particularly ducts, hot and cold water mixers, water closets, spare parts and accessories thereof namely rinsing systems, toilet lids, water flushing systems, compression rinsing machines, toilet seats, covers and lids, toilet bowls; wash-hand basins; reinforcing materials for bathtubs, for showers and for wash-hand basins; adjustable support arms for hand-held showers; vertical and hand-held showers; bathtubs; valves and fittings for showers; bidets; fittings and reinforcing sections for showers, for bathrooms, for toilets, for steam baths and sanitary use, including corner valves, stop valves; valves for water pipes; swan-neck tubes with connections therefor; shower receivers; shower cubicles, without any water supply and discharge valves and fittings; shower screens; valves and fittings for steam baths; showers and shower heads; electric water softeners and water cleaners; covers for car headlights; bathtub grips; electric wall fittings; irrigation machines; dividing screens for shower and bath cubicles made of plastics alone, or combined with metal; shower doors, class 11, vehicles and apparatus for locomotion by land or by water, especially wheelbarrows, portable hose reels, concrete mixing vehicles, forklift trucks, automobiles, delivery tricycles, transport trucks, wheelbarrows used in construction and gardens; boats, wheel trolleys, motor vehicles and parts thereof; shock absorbers; steering forks; bumpers; shock absorbing struts; towing cables and hooks for motor vehicles; doors, spokes and

wheels for automobiles; wheel rims; protective sheaths for vehicle springs (for shock absorbers); steering wheels for automobiles; roof racks for cars; saddle holders for bicycles and motorcycles; masts for sail boats; seat covers for vehicles, klass 12, paper or cardboard goods, namely face towels, table napkins, filter paper, pocket handkerchiefs, toilet paper, babies' napkins, packaging containers, packaging sachets, sticky corners to hold photos in place; printed matter; patterns for dressmaking (paper); templates for jigsaws (paper); diy calendars; bookbinding material, namely thread, cloths and other textiles for bookbindings; stationery; adhesives for stationery or household purposes; artists' supplies, namely articles for drawing, painting and modeling; color sets (school requisites); gratings used by painters (to remove excess paint from rollers); painting boards; stencils for painters; drawing pads; painter's easels; painters' sketch-pads; chalks (for writing and for tailors); painters' rollers; painters' brushes; painting accessories; painting palettes; painting canvasses; paintbrushes; office requisites, namely non-electric office equipment and utensils, document files, letter trays, letter openers, writing pads, office perforators, staplers, paper clips and staples for office use, typewriter ribbons, stamps, stamp pads, stamp-pad inks, writing and drawing inks, Indian inks; instructional and teaching material (excluding apparatus), in the form of printed matter, games, life-like animals and plants, geologic models, globes, drawing instruments for blackboards; pictures, collages, photographs; chromolithographs; lithographs, posters, klass 16, products made of semi-processed plastics; extruded profiles made of plastic materials with layers of metal or resembling metal; plastic films (other than for packaging), including films for gardening, protective films for ponds and insulating underlays; acrylic plates, blocks, slabs, rods and tubes of semi-processed plastics, particularly made of acrylic and polystyrol; adhesive films not included in other classes; packing, stopping and insulating materials; insulating gloves; insulating fabrics; sealing and insulating materials in liquid, solid or paste form, particularly for plumbing fixtures, for window, door, wall and roof weather-stripping and insulation; insulating materials, particularly mineral wool, composite foam boards, flexible nonmetallic insulating tubes; insulating foam, soundproofing plates, insulating films and thermal insulation goods; adhesive tapes and strips not included in other classes; insulating sheets made of metal; insulating varnish; insulating boards for ceilings; hollow profiles packed with insulating materials (foam); insulating boards for walls; single-layer insulating paints; insulating baize; flexible nonmetallic pipes; accessories for watering installations, namely pipe couplings, water spraying pipes, spiral pipes, irrigation and spot-spraying pipes and plastic pipes; nonmetallic reinforcing materials for pipes; fiberglass strips and mats not included in other classes; mastics, pastes and other joint-sealing materials; insulating tapes; jointing mastic; watering hoses; seals for sanitary installations; caulking paste; flexible hoses for sanitary installations; floor insulation boards, klass 17, mainly nonmetallic construction materials; elements for pipe building and water disposal; gutters, mainly not of metal; roughcasts; roughcast work; slabs (mainly non metallic); nonmetallic latticework; pipes and ducts (mainly non metallic); roller shutters (mainly non metallic); glass panels for construction purposes; rain-water collection pipes (mainly non metallic); cement sheets; mosaics for building; plastic pools for artificial ponds; flagstones of natural or synthetic stone; sand; floor paving, wall and angle paving (mainly non metallic); plaster boards; split tiles, split stoneware tiles; cement; building materials for walls and partitions; floor slabs, wall slabs and floor tiles; decorative panels not of metal for ceilings and walls; cement mortar; nonmetallic roof tiles; nonmetallic construction elements for external facilities; fluxing media not included in other classes; nonmetallic door frames; doors (mainly non metallic); nonmetallic building materials for roads; stones (natural or synthetic); clinker; transit concrete; staircases and steps, not of metal; dry construction materials; chimneys (for roofs); indoor chimneys; gutters (mainly non metallic); window casings (mainly non metallic);

window sashes (mainly non metallic); window components (mainly non metallic); window frames; floor tiles and tiles (mainly non metallic); prefabricated elements for superstructures; ready-made mortar; window ledges; windows (mainly non metallic); concrete; roofing and roofers' equipment; nonmetallic construction elements for bridges and roadways; gravel; concrete-based products; fixed or sliding shutters (non metallic); doors and windows for showers and bathrooms; sliding screens and their adjustable shutters; upright columns and hanging columns; decorative panels (predominantly made of nonmetallic materials) for ceilings and walls; binders (construction materials); concrete boards, building materials for interior design and for courtyards and gardens; front doors (mainly non metallic); insulating glass for building; indoor chimneys; tiles (mainly non metallic); wall and floor tiles made of natural or synthetic stones; lime, particularly building lime and lime parget; glass panes; gypsum plasterboard covered with composite foam; plinths, mainly non metallic; glass bricks, nonmetallic garage doors; floor coverings made of rubber or plastic (construction materials); prefabricated garden tool sheds mainly non metallic; aerated concrete blocks; plaster; mortar; rigid pipes (mainly non metallic) for construction purposes; transportable constructions (mainly non metallic); prefabricated hothouses (mainly non metallic); pergolas, indoor hothouses (mainly non metallic); prefabricated shelters, bunkers (mainly non metallic); compost bins (mainly non metallic); prefabricated covered garages (mainly non metallic); prefabricated wooden sheds for garden tools; prefabricated greenhouses (transportable, mainly non metallic); construction materials, essentially made of wood; wooden fences; material made of building timber, particularly shaped sections, wood paneling, laths, glulam, composite laminated materials, blockboard, moldings made of wood, PVC post-formed panels; wooden fiberboards; wood trims; fence poles; plywood; decorative paneling; rosewood; planks; diy wood; girders; wood blocks; building timber for the garden; wooden floors; mine timber; rigid paneling made of wood fibers; baseboards made of wood; pointing mortar; translucent shutters with a metal frame; canvas covers (containers for horticulture), klass 19, goods (included in this class) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum, or plastic materials; curtain rails of rattan; nesting boxes; spare handles (not of metal) for household articles and for gardening tools; chests, not of metal; lacquered boxes not included in other classes; wickerwork; seldedge rods made of wood or synthetic materials; transportation pallets not included in other classes; nonmetallic barrels; handles, made mainly of wood; bamboo; glass plates for framing; nonmetallic baskets and broom handle supports; small boards of balsa wood; Easter decorations of wood and plastic; wooden eggs; wooden pearls; wooden rings; wooden balls; wooden wheels; furniture, frames; chipboard caskets; shelves and parts thereof; bathroom cabinets; easels not included in other classes; cork memo-boards; air mattresses; nonmetallic bins; curtain rails; vanity and dressing tables; tables; tables for wallpapering; chair cushions; stepladders and ladders; camping furniture; built-in kitchen furniture; rods for picture frames; material for hanging pictures (frames); bathroom furniture; benches; clothes' hooks; frames for paintings; boxes not included in other classes; rests; curtain casings and rails; work benches; kitchen worktops; curtain rods and poles; hooks for hand towels; mirrors; nonmetallic rings for sanitary installations, curtain tie-backs, non-mechanical non-metallic reels for irrigation pipes; seed trays; non-metallic oil and grease cans (for machines); non-metallic duckboards; non-metallic window bolts; baskets for hand towels; winding drums, construction hinges (non metallic); trays and tubs for mortar; vegetable planting trays (mainly non metallic); containers made of plastic, particularly of acrylic and/or polystyrene materials, klass 20, cooling packs; household appliances included in this class; small apparatus, instruments and containers for household or kitchen use (neither of precious metal nor coated therewith); soap holders; toilet paper holders; toothbrush glass holders; clothes racks; mouse traps; flower and plant pots (mainly non

metallic); wire candlesticks; watering tools, namely spray nozzles for pipes; rose heads and hoses; bath towel holders; napkin rings; hand towel holders; glass goods, porcelain and earthenware for household and kitchen use; colanders; porcelain figurines; sculptures not included in other classes for fountains; flowerpot holders not of paper; holders for toiletry articles; plant sprays; garden gnomes not included in other classes; watering devices, including watering devices for lawns; buckets; wooden plates; disposable tableware; art objects made of glass, porcelain and earthenware; toothbrushes; toilet brushes and holders therefor; watering devices; mangers and drinking bowls for birds; fiberglass strips and mats not included in other classes; brushes (except paintbrushes); climbing poles, not of metal, for plants; stakes; pails, klass 21, towing cables not of metal for motor vehicles, klass 22, clothing, footwear, headgear; work clothes, klass 25, non-textile wall hangings; carpets and rugs; doormats; mats; linoleum and other floor coverings; oilcloth; toilet mats, wall finishes made of paper, plastic materials, natural fibers or synthetic material; insulating wallpaper; insulating floor coverings, klass 27, agricultural, horticultural and forestry products, namely grains and other reproduction means, raw cereals, unsawn timber, natural seeds, plants and flowers; Christmas trees (cut), nursery plants, fruit-bearing trees; flower arrangements consisting of natural flowers, dried flowers, klass 31, och frame making on order, klass 40. Märket är utfört i rött, vitt och svart.

**BAUHAUS®**

PRV har som hinder för märkets giltighet i Sverige anfört att innehavarens märke är förväxlingsbart med gemenskapsvarumärket BAUHAUS DESSAU, med registreringsnummer 1373893, som registrerats för transportable buildings of metal; ironmongery, small items of metal hardware; goods of common metal, included in class 6; metal building materials, klass 6, lamps and lights, klass 11, precious metals and their alloys and goods of precious metals or coated therewith (included in class 14); jewellery, precious stones; horological and chronometric instruments, klass 14, printed matter; paintings, lithographs; photographs, posters, klass 16, non-metallic transportable buildings; monuments; building materials (non-metallic), klass 19, furniture, mirrors, picture frames; goods (included in class 20) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics, klass 20, glassware, porcelain and earthenware, included in class 21; household and kitchen utensils and containers, included in class 21, klass 21, textiles and textile goods (included in class 24); bed and table covers; wall hangings of textile, klass 24, articles of clothing; headgear; footwear, klass 25, carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings, included in class 27, klass 27, organising and arranging of travel, sightseeing and guided tours; escorting of travelers, klass 39, arranging and conducting of seminars; educational services; organisation and arranging of trade fairs and exhibitions for cultural purposes; cultural activities; slide and film lectures and showings, klass 41, och construction and design planning and consultancy; architecture; interior design; providing of food and drink for guests; accommodation reservations, klass 42.

Innehavaren har bl a anfört att märkena inte är förväxlingsbara då de ger olika helhetsintryck.

## SKÄL

Hinder mot att en internationell varumärkesregistrering skall gälla i Sverige finns enligt 54 § 2 stycket varumärkeslagen om det varumärke som den internationella registreringen avser inte uppfyller förutsättningarna enligt 13 § eller om något hinder mot en nationell registrering skulle ha funnits enligt 14 §.

Ett varumärke får enligt 14 § 1 stycket 9 punkten varumärkeslagen inte registreras om märket är förväxlingsbart med ett gemenskapsvarumärke som innehas av någon annan och är registrerat efter en tidigare ansökan. Enligt 6 § 1 stycket samma lag skall varumärken anses förväxlingsbara endast om de avser varor eller tjänster av samma eller liknande slag.

Frågan om förväxlingsbarhet skall avgöras vid en helhetsbedömning vid vilken alla omständigheter av betydelse i sammanhanget skall beaktas, framför allt märkeslikhet samt likheten i de varor eller tjänster som avses.


PRV gör följande bedömning.

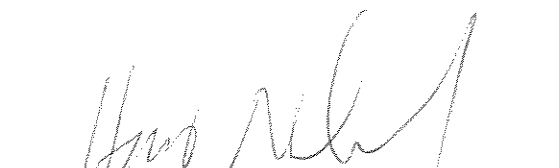
Beträffande märkeslikheten konstateras att lydelsen i innehavarens märke är identisk med det inledande och dominerande ordet i det mothållna märket, varför märkeslikhet föreligger. Övriga inslag i de båda märkena förändrar inte bedömningen.

Det föreligger vidare varuslagslikhet mellan varor som föreliggande internationella registrering omfattar och varor som den motanförda registreringen omfattar, då de är av samma/liknande slag. Vid en helhetsbedömning finner PRV därmed att märkena är förväxlingsbara.

Med hänsyn till de skäl som ovan anförts skall den internationella registreringen inte gälla i Sverige.

Beslutat den 30 MAR 2010

  
Sara Dahlberg

  
Hans Nordlund

## HUR BESLUTET ÖVERKLAGAS

Den som vill överklaga beslutet skall göra det skriftligt. Skrivelsen skall vara ställd till Patentbesvärsrätten, men sändas till Patent- och registreringsverket, Box 530, 826 27 Söderhamn. I skrivelsen skall anges det beslut som överklagas och den ändring av beslutet som begärs. Skrivelsen skall ha kommit in till verket inom två (2) månader från beslutsdagen.