

Notification of Provisional Refusal based on an Ex Officio Examination (to WIPO)

Pursuant to Rule 17(2) of the Common Regulations under the Madrid Agreement concerning the international registration of marks and the Protocol relating to that Agreement.

I. Name and address of the Office making the notification:

Norwegian Industrial Property Office	Telephone:	+47 22 38 73 00
P.O.Box 8160 Dep., N-0033 OSLO, NORWAY	Telefax:	+47 22 38 73 01
	E-mail:	mail@patentstyret.no

II. International registration: 1248225



III. Date of Subsequent Designation (if any):(yyyy.mm.dd)

IV. Holder of the international registration:

Société Jas Hennessy & Co., Rue de la Richonne, FR-16100 COGNAC, Frankrike

V. The scope of the refusal:

Provisional refusal for all goods

Provisional partial refusal for some of the goods and/or services - see under X

VI. Grounds for refusal:

Absolute grounds:

Relative grounds: **Trademark Act Section 16.a**

Likelihood of confusion with:

International registration number:
1123988 MOËT HENNESSY

VII. You will find more information about the conflicting mark(s) (if any) enclosed under XII. The relevant provisions of the Norwegian Trademarks Act are under XI.

VIII. Date of provisional refusal: (yyyy.mm.dd) **2015.09.18**
Response must be received within: (yyyy.mm.dd) **2015.12.18**
See more information under X about the time limit and which actions you need to take if you want to request a review of the provisional refusal.

IX. Signature by the Office:
THE NORWEGIAN INDUSTRIAL PROPERTY OFFICE

Synnøve Heimdahl

(National reference no.: 201506286) Number of continuation sheets: 5

X. The holder of the registration may request a review of the provisional refusal. The Norwegian Industrial Property Office must receive the request no later than 3 months from the date of this provisional refusal (The time limit is indicated under point VIII). Such request must provide an address of correspondence and be filed in Norwegian, Danish, Swedish or English. The Norwegian Industrial Property Office will respond in Norwegian. Please note that if The Norwegian Industrial Property Office, either subsequent to review or appeal, accept the designation of Norway, a post grant opposition may be filed against the mark within 3 months from the publication of the mark.

If the holder does not respond to this provisional refusal within the time limit, the international registration shall be considered abandoned in Norway for the goods/services that are excluded (Trademark Act Section 70 and 23). The international registration shall be resumed if the holder, within two months from the expiration of the time limit responds to the provisional refusal and pays the stipulated fee (NOK 500,-). Please note that The Norwegian Industrial Property Office does not send any notifications to the holder that the international registration is abandoned in Norway.

XI. The relevant provisions of the Norwegian Trademarks Act regarding the grounds of this provisional refusal:

§ 4. Content of a trademark right

A trademark right has the effect that no one, without the consent of the proprietor of the trademark right (the trademark proprietor), may use in an industrial or commercial undertaking:

- a) any sign which is identical with the trademark for goods or services for which the trademark is protected
- b) any sign which is identical with or similar to the trademark for identical or similar goods or services if there exists a likelihood of confusion, such as if the use of the sign may give the impression that there is a link between the sign and the trademark.

For a trademark which is well known in Norway, the trademark right implies that no one, without the consent of the trademark proprietor, may use a sign that is identical with or similar to the trademark for similar or any other goods or services, if the use of that sign without due cause takes unfair advantage of, or is detrimental to, the distinctive character or repute (goodwill) of the well-known trademark.

Continuation sheet no: 1

Int. reg. Number: 1248225

Use is considered to include the following:

- a) affixing the trademark to goods or to the packaging thereof
- b) offering goods for sale or otherwise putting them on the market, stocking or delivering them under the sign, or offering or supplying services thereunder
- c) importing or exporting goods under the trademark
- d) using the sign on business documents and in advertising.

Verbal use of the sign is also considered as use.

§ 16. Trademarks that conflict with the rights of others

A trademark cannot be registered without the consent of the relevant proprietor of rights if:

- a) use of the trademark would infringe the right of another in this country to a trademark or business name or another business sign,
- b) the trademark is liable to be confused with a trademark, business name or other business sign that someone else started to use as a the distinctive sign for goods or services before the applicant and is still using, and the applicant was aware of this use when the application for registration was filed, in such way that the filing shall be considered to have taken place in conflict with honest practices in industrial or commercial matters
- c) the trademark contains something that is liable to be perceived as another person's name, stage name or portrait, unless it obviously refers to a person who is long dead,
- d) the trademark contains something that is liable to be perceived as the distinctive title of another's protected creative or intellectual work or it infringes another's right in Norway to a creative or intellectual work or a photography or a design, or
- e) the trademark infringes another's right in Norway to a designation protected in regulations pursuant to Act no. 6 of 17 June 1932 on Quality Control of Agricultural Goods, etc. or Act no. 124 of 19 December 2003 on Food Production and Food Safety, etc.

Guide to the following INID codes:

(111): National registration number/ International registration number
(151): Date of national registration/Date of international registration
(180): Date of expiry
(210): National application number
(220): National application date /Date of notification
(300): Data relating to priority (if any)
(450): Date of publication
(511): List of goods and services
(540): Reproduction of the mark
(541): Indication relating to the nature or kind of mark (in Norwegian)
(546): Indication relating to the nature or kind of mark (in Norwegian)
(551): Collective mark (regulations)
(571): Description of the mark
(731): Name of the applicant
(732): Name of the proprietor
(740): Power of attorney

XII. Prior marks cited ex officio

- (111) **Reg.nr.:** 1123988
(151) **Reg.dato.:** 2012.03.21
(180) **Registreringen utløper:** **2022.03.21**
(210) **Søknadsnr.:** 201208513
(220) **Inndato:** 2012.08.23
(450) **Kunngjøringsdato:** 2013.04.15
(540) **Gjengivelse av merket:**

MOËT HENNESSY

- (541) **Merketype:**
Merket er et ordmerke i standard font
- (571) **Beskrivelse av merket:**
MOËT HENNESSY
- (731) **Søker:**
Moët Hennessy, 65 avenue Edouard Vaillant, FR-92100 BOULOGNE
BILLANCOURT, Frankrike
- (732) **Innehaver:**
Moët Hennessy, 24/32, rue Jean Goujon, FR-75008 PARIS, Frankrike
- (740) **Fullmektig:**
Oslo Patentkontor AS, Postboks 7007 Majorstua , 0306 OSLO, Norge
- (511) **Vare-/ tjenestefortegnelse:**
- Klasse 16 Printed matter; bookbinding material; photographs; stationery; adhesives (glues) for stationery or household purposes; artists' materials; paintbrushes; typewriters and office requisites (except furniture); instructional or teaching material (except apparatus); printing type; printing blocks; paper; cardboard; boxes of cardboard or paper; posters; albums; cards; books; newspapersmagazines; prospectuses; pamphlets; calendars; writing instrumentspens, pencils; engravings or lithographic works of art; paintings (pictures), framed or unframed; aquarelles; patterns for dressmaking; graphic prints; drawing instruments; handkerchiefs of paper; face towels of paper; table linen of paper; bags and small bags (envelopes, pouches) of paper or plastics for packaging; garbage bags of paper or of plastics.
- Klasse 21 Non-electric utensils and containers for household or kitchen use; combs and sponges; brushes (except paintbrushes); brush-making materials; hand-operated cleaning instruments; steel wool; garbage cans; unworked or semi-worked glass (except building glass); china; earthenware; bottles; works of art of porcelain, terra-cotta or glass; statues or figurines (statuettes) made of porcelain, terra cotta or glass; toilet utensils or cases; garbage cans; glasses (receptacles); tableware; indoor aquaria; ice buckets and coolers, not of precious metal; serving trays, not of precious metal; decanters; portable non electric coolers; insulating bottles and cooling bottles; cool bags and boxes; menu card holders; drinking glasses; services (tableware) not of precious metal; heat-insulated containers; beverage dispensers; bottle openers; drinking flasks for travelers; pottery; corkscrews; bottle cap removers; non-electric bottle openers; manual mixers

(cocktail shakers); accessories for serving wine, namely bottle holders, wine pourers, pouring lips; china ware, namely drinking cups, bowls, services (tableware), dishes; cocktail shakers (manual mixers).

- Klasse 25 Clothing; footwear; headgear; shirts; leather or imitation leather clothing; belts (clothing); furs (clothing); gloves (clothing); scarves; neckties; hosiery; socks; beach, ski or sports footwear; underwear; caps (headwear).
- Klasse 32 Beers; mineral and aerated waters; fruit beverages and fruit juices; syrups and other preparations for making beverages; lemonades; fruit nectars; soda water; non-alcoholic aperitifs.
- Klasse 33 Alcoholic beverages (except beers); cider; digesters (liqueurs and spirits); spirits; cognac; vodka; rum; whisky; alcoholic extracts or essences; AOC wines with the protected appellation of origin "Champagne"; sparkling wines; still wines.
- Klasse 35 Commercial and administrative management; business administration; commercial or industrial management assistance; business management and organization consultancy, business information or inquiries; advertising; dissemination of advertisements; publication of advertising texts; public relations; organization of promotional events, ceremonies, exhibitions, trade shows, customer loyalty activities, all these services for business or advertising purposes; retail sale of alcoholic beverages in stores, over the Internet and via mail order.
- Klasse 36 Taking stakes in French, European or international companies; management of a capital investment fund; mutual funds; services provided by a holding company, namely managing shares in companies; company financing; financial information, analyses and appraisals; insurance underwriting; financial affairs; monetary affairs; real estate affairs; raising or investing capital; fund investments.
- Klasse 39 Transport; packaging and storage of goods; arranging of tours; transportation information; physical storage of electronically-stored data or documents.
- Klasse 41 Educational services; providing of training; entertainment; sporting and cultural activities; information relating to entertainment or education; leisure services and shows; publication of books; lending libraries; animal training; videotape film production; rental of motion pictures; rental of sound recordings; rental of video cassette recorders or of radio and television sets; rental of show scenery; videotape editing; photography services; organization of competitions (education or entertainment); organization of promotional events, ceremonies, exhibitions, trade shows, concerts and colloquiums for cultural, educational or entertainment purposes; booking of seats for shows; show production; sponsorship services; game services provided on-line from a computer network; gambling services; publishing services for books, reviews and magazines; electronic publication of books and periodicals on-line;

electronic desktop publishing; night club services.

Klasse 43 Services for providing food and drink; temporary accommodation; bar services; food and drink catering; hotels; cafés; cafeteria services; canteens; cocktail bars; bars serving wine with the designation of origin "Champagne"; restaurants; restaurants (self-service); fast food restaurant services; procurement services for food and drink; beer house and inn services; wine bars and taverns; temporary accommodation reservations.