

Thomas Kruse Lie - Patrade A/S

Fra: Klaus Kristensen - Patrade A/S
Sendt: 7. april 2017 12:35
Til: trademarks@njordlaw.com
Cc: Laila Haaning Olsen - Patrade A/S
Emne: SV: BE: AR: 400583-036 Your ref.: V13405EU01 Possible opposition against EUTM 16241861 CRUZ (fig) [Vores ref.: V13405EU002/KKR]

Applicant: Sports Group Denmark A/S
Application No.: 016241861
Country: EU
Classes: 09, 18, 25, 28, 35
Trade mark: CRUZ

Without prejudice, save as to costs

Dear Mr. Olson

I refer to your e-mail of March 13, 2017.

First of all, I do not agree that there exist a likelihood of confusion between your client's and my client's trade marks. "SANTA" is the dominant part of your clients trade marks and in connection with the suffixes the trade marks differs from my client's trade mark both in terms of visual and phonetics expression.

Furthermore, I do not agree with your argument regarding the conceptual understanding of your clients trade mark, and as a result I disagree on the fact that "SANTA" would, by the relevant part of public, be understood as "saint". Instead, the relevant part of public would draw references to the famous beach Santa Cruz in California, where your client's business/head office is located.

After considering the information you have provided me with and looking into your client's business, I have not been able to determine the relevant part of public for your client's trade marks, goods and services. However, given my client's limited knowledge about your client, its business and trade marks, and the amount of time your client's trade marks have been registered in EU, it would at this point appear that the relevant part of public differs from each other as well.

Second of all and as already mentioned, I do not agree that your client's trade mark should be divided in the conceptual understanding/descriptiveness of respectively "SANTA" and "CRUZ". I do agree with you in terms of the descriptiveness of the mark, however, for different reasons than you pointed out in your email – I have elaborated below.

According to EUTM Regulation No 207/2009 article 7, 1. c) "*...trade marks which consist exclusively of signs or indications...*" such as geographical origin, intended purpose or other characteristics of the goods and services cannot be registered in the European Union. Nevertheless, your client's trade marks, all of which refer to either geographical origin, intended purpose or both, have been registered in the European Union. The lack of distinctive character ultimately limits the scope of protection and more importantly increases the risk of cancellation cases against the trade marks.

Given the fact that my client has used its trade mark for several years in the EU and never experienced any confusion between its trade mark and your client's trade marks, my client suggests that the parties enter into a co-existence agreement, and thereby solves this case in an amicably way for both parties. Such agreement should include a mutual obligation for both parties to prevent confusion to any relevant part of the public.

If your client does not wish to enter into a co-existence agreement, we would in a defensive manner have to file cancellation requests against your client's trade mark registrations based on the lack of distinctive character. However, such solution would not be preferable for any of the parties.

Please set forth my client's proposal and contact me once you have received your client's instructions.

I look forward to hearing from you.

Med venlig hilsen | Yours sincerely

Patrade A/S

Klaus Kristensen
Legal Consultant
LL.M

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Fra: trademarks@njordlaw.com [mailto:trademarks@njordlaw.com]

Sendt: 28. marts 2017 10:34

Til: Klaus Kristensen - Patrade A/S

Cc: Pernille Johnsen - Patrade A/S; Katrine H. Thrysoe-Price - Patrade A/S; trademarks@njordlaw.com; Peter Gustav Olson

Emne: BE: AR: 400583-036 Your ref.: V13405EU01 Possible opposition against EUTM 16241861 CRUZ (fig) [Our ref.: V13405EU001/PNE]

NJORD ref.: 400583-036/TMX2403ER

Patrade ref.: V13405EU01

Without Prejudice

Dear Mr. Kristensen,

Thank you for your email below. It does not appear from our file that we have received further response from you in the above matter. If you have already sent, please resend. We are looking forward to hearing from you as soon as possible.

Med venlig hilsen / Best regards

Peter Gustav Olson

Pernille Larsen

IP Paralegal

Direct:

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Mail: pel@njordlaw.com

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Professional skills are our foundation. Business understanding our force. Flexibility is part of our DNA.

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From: Klaus Kristensen - Patrade A/S [<mailto:kkr@patrade.dk>]
Sent: 21. marts 2017 16:33
To: trademarks@njordlaw.com
Cc: Pernille Johnsen - Patrade A/S <pne@patrade.dk>; Katrine H. Thrysoe-Price - Patrade A/S <kht@patrade.dk>
Subject: SV: BE: AR: VS: 400583-036 Your ref.: V13405EU01 Possible opposition against EUTM 16241861 CRUZ (fig) [Our ref.: V13405EU001/PNE]

Applicant: Sports Group Denmark A/S
Application No.: 016241861
Country: EU
Classes: 09, 18, 25, 28, 35
Trade mark: CRUZ

Dear Sirs

I refer to your email below.

At the moment, I am still discussing this matter and possible options with my client. We are aware that the opposition deadline is May 2, 2017, and will of course respond in due course.

If you have any questions meanwhile, please let me know.

Med venlig hilsen | Yours sincerely

Patrade A/S

Klaus Kristensen
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Fra: trademarks@njordlaw.com [<mailto:trademarks@njordlaw.com>]

Sendt: 10. marts 2017 10:51

Til: Patrade A/S (info@patrade.dk)

Cc: trademarks@njordlaw.com; Peter Gustav Olson

Emne: 400583-036 Your ref.: V13405EU01 Possible opposition against EUTM 16241861 CRUZ (fig)

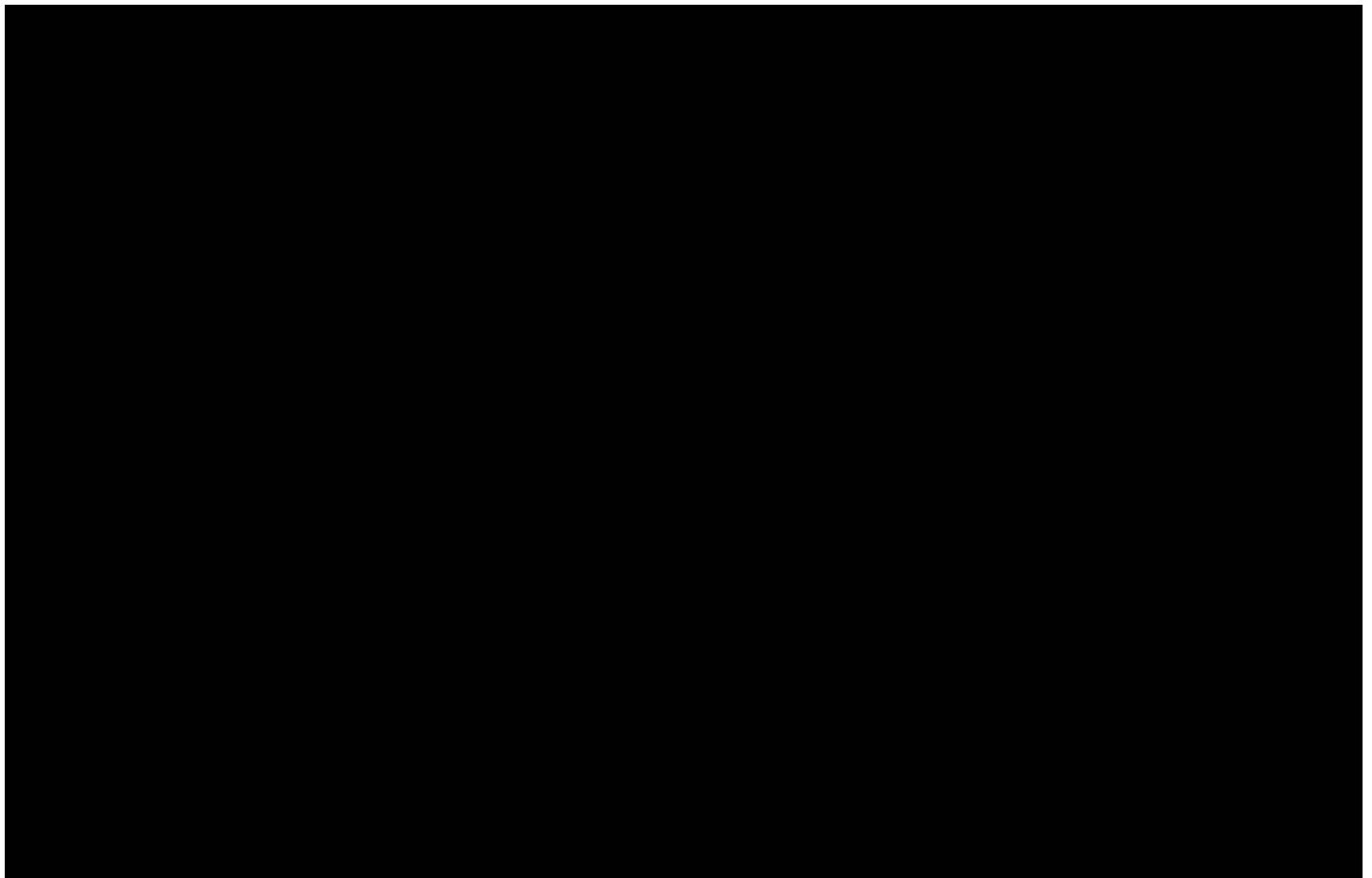
Prioritet: Høj

NJORD ref.: 400583-036/TMX2403ER

Patrade ref.: V13405EU01

Without Prejudice

Dear Sirs,



Med venlig hilsen / Best regards

Peter Gustav Olson

Advokat / Partner

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