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
P.O.Box 8160 Dep., N-0033 OSLO, NORWAY
Telephone: +47 22 38 73 00
Telefax: +47 22 38 73 01

II. **International registration:** 1110421 CRYPTZONE

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

IV. **Holder of the international registration:**
Cryptzone Group AB, Box 113, SE-53222 SKARA, Sverige

V. **The scope of the refusal:**

☐ **Provisional refusal for all goods and/or services**

☒ **Provisional partial refusal for some of the goods and services - see under X**

VI. Grounds for refusal:

☐ Absolute grounds:

☒ Relative grounds:**Trademark Act Section 16.a**
Likelihood of confusion with:
National registration number:
260025 Cryptzone

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

VIII. **Date of provisional refusal:** (yyyy.mm.dd) **2012.10.05**
Response must be received within: (yyyy.mm.dd) **2013.01.05**
See more information under XI 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

Line Reum

(National reference no.: 201203507) Number of continuation sheets: 3

X. Scope of the provisional refusal in respect of goods and services:

If the holder does not contest the refusal within 3 months, protection is given for:

Class 41 as filed

The international registration will be published for protection with the above-reduced list of goods/services.

Rapid publication of the limited list
If the holder accepts the proposed limitation of the goods/services, and wishes a publication of the mark for these goods/services as soon as possible, he/she may confirm this in writing to The Norwegian Industrial Property Office. If The Norwegian Industrial Property Office does not receive any such confirmation from the holder, the mark will however be published for protection of the limited list of goods/services, after the expiry of all the time limits.

XI. 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.

XII. 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.

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

XIII. Prior marks cited ex officio

(111) **Reg.nr.:** 260025
(151) **Reg.dato.:** 2011.05.16
(180) **Registreringen utløper:** 2020.12.20
(210) **Søknadsnr.:** 201013309
(220) **Inndato:** 2010.12.20
(450) **Kunngjøringsdato:** 2011.05.23
(540) **Gjengivelse av merket:**
Cryptzone

(541) **Merketype:**
Merket er et ordmerke i standard font

(571) **Beskrivelse av merket:**
Cryptzone

(731) **Søker:**
Jussystemer AS, Inkognitogaten 33 B, 0256 OSLO, Norge

(732) **Innehaver:**
Jussystemer AS, Inkognitogaten 33 B, 0256 OSLO, Norge

(740) **Fullmektig:**
Stray Vyrje & Co DA Advokatfirma, Postboks 520 Skøyen, 0214 OSLO, Norge

(511) **Vare-/ tjenestefortegnelse:**

Klasse 9 Dataprogrammer og software.

Klasse 16 Trykksaker, instruksjons- og undervisningsmateriell.

Klasse 35 Bistand ved ledelse og administrasjon av bedrifter; kontortjenester.

Klasse 38 Telekommunikasjonsvirksomhet; mobiltelefontjenester, herunder kommunikasjon via mobiltelefoner og andre håndholdte datamaskiner; overføring av samtaleinformasjon og beskjeder fra mobiltelefoner til datamaskiner og fra datamaskiner til mobiltelefoner.

Klasse 42 Design og utvikling av dataprogrammer og software; konsultasjonsvirksomhet og brukerstøttetjenester vedr dataprogrammer og software; vedlikehold, oppdatering og installasjon av dataprogrammer og software; programmering for datamaskiner; design av computersystemer; utleie av dataprogrammer og software.