

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. National office that notifies the refusal of protection:
The Swedish Patent and Registration Office
Box 530, S-826 27 SÖDERHAMN, SWEDEN

Telephone: + 46 8 782 25 00
Telefax: + 46 270 173 51

II. International registration: No: 1313041, XIAOMI

III. Holder of the international registration:
Xiaomi Singapore Pte. Ltd.
12 Marina View #23-01 Asia Square Tower 2
Singapore 018961
Singapore

IV. The scope of the refusal:

Provisional refusal for SOME goods and/or services – namely the following:

Class 18: Fur; bags; travel box; backpack; purse (wallet); shopping bag; handbags; travel bag; luggage; rucksack; suitcases; sport bags; packaging bottle bags [envelopes, pouches] of leather; furniture upholstery leather; leather for furniture; leather strap, umbrella, umbrella cover; alpenstock; stick.

Concerning the goods/services for which protection may be granted, see section IX.

V. Grounds for refusal:

Relative grounds:

Trademark Act Chapter 5 Article 8:2 and Chapter 2 Article 8:1, item 2:

The mark is confusingly similar to the Community Trademark(s):
014584965 XIAOMAN

In respect of the following goods/services:

Class 18: Fur; bags; travel box; backpack; purse (wallet); shopping bag; handbags; travel bag; luggage; rucksack; suitcases; sport bags; packaging bottle bags [envelopes, pouches] of leather; furniture upholstery leather; leather for furniture; leather strap, umbrella, umbrella cover; alpenstock; stick.

VI. You will find more information about the conflicting mark(s) (if any) enclosed under XII.
The relevant provisions of the Swedish Trademark Act are under XII.

VII. Date of provisional refusal: 06/04/2017
Response must be received within: 06/07/2017

VIII. Signature by the Office:
THE SWEDISH PATENT AND REGISTRATION OFFICE

Bo Tennemar

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

Classes 7 and 11 as filed.

Rapid publishing of the limited list

If the holder wishes for rapid publishing of the designated trade mark – for the goods/services which are not subject to refusal – the holder may send an explicit request to PRV that the designation of Sweden is partially withdrawn for the goods/services which are subject to the provisional refusal. This request must be signed in original.

X. Request for a review

The holder of the registration may request a review of the provisional refusal. The Swedish Patent and Registration Office must receive the request no later than 3 months from the date of this provisional refusal. Such request must provide an address for correspondence and be filed in Swedish, Danish, Norwegian or English. The Swedish Patent and Registration Office will respond in Swedish.

XI. Final decision

If this provisional refusal is not contested, or if any of the invoked grounds remain after a request for review, the Swedish Patent and Registration Office will issue a final decision in this matter.

Only applicable to partial refusals: once the final decision takes legal effect (no appeal is filed), the international registration designating Sweden will be published for protection with this above list of goods and services. If the final decision is appealed the case will be remitted to the Patent and Market Court.

Post grant opposition

Please note that to the extent the designation of Sweden is accepted, a post grant opposition may be filed against the mark within 3 months from the publication of the mark.

**XII. The relevant provisions of the Swedish Trademarks Act regarding the grounds of this provisional refusal:
*Trademark Act Chapter 5 Article 8:2 and Chapter 2 Article 8:1, item 2:***

Chapter 1. Basic Provisions

Article 5. A trade symbol shall be considered to be distinctive if it is able to distinguish goods or services that are being made available in one business activity from those that are being made available in another one.

Lack of distinctiveness may be caused by the fact that a trade symbol consists only of signs or indications that

1. in the course of trade show the kind, quality, quantity, intended use, value, geographical origin or other characteristics, or the time of production, of the goods or services, or
2. in common language or according to established practice in trade have become a customary denomination for the goods or services.

In the determination of whether a symbol is distinctive, consideration shall be given to whether it can acquire distinctiveness through use.

Chapter 2. National Registration of Trademarks

Article 5. In order for a trademark to be registered, it must have distinctiveness in respect of the goods or services to which it relates.

Article 7. A trademark may not be registered if it

1. is contrary to law or other statutory provisions or to morality or public order,
2. is likely to deceive the public as regards the kind, quality, geographical origin or any other circumstance related to the goods or services,
3. contains, without permission, such a State or international emblem or such a municipal coat of arms that, by law or other statute, must not be used unwarrantedly as a trademark, or something that might be easily confused with such an emblem or such a coat of arms.

A trademark may, furthermore, not be registered if it contains or consists of something that is likely to be regarded as a geographical indication for wines or spirits and is related to wines or spirits of a different origin.

Article 8. A trademark may not be registered if it

1. is identical with an earlier trade symbol for goods or services of the same kind,
2. is identical with or is similar to an earlier trade symbol for goods or services of the same or similar kind, if there is, due to this fact, a risk of confusion, including the risk that the use of the trademark gives the impression that there is a link between the party using the trademark and the holder of the trade symbol,
3. is identical with or similar to an earlier trade symbol which is known in a considerable portion of those to whom it is addressed, and the use of the trademark would attract undue advantage of, or without legitimate reason cause damage to, the distinctiveness or reputation of the trade symbol, or
4. may easily be confused with a symbol that is used in this country or in a foreign country at the time of the application and is still in use, if the applicant was in bad faith at the time of the application.

As a trade symbol referred to in the first Paragraph, 1 to 3, is deemed

1. a trademark that is registered pursuant to this Chapter,
2. a trademark that is registered on the basis of an international trademark registration which is valid in Sweden pursuant to Chapter 5,
3. a trade symbol that is established on the market, if the protection based on the establishment on the market is valid within a considerable part of the country, and
4. a Community Trade Mark.

Article 9. The obstacles to registration referred to in Article 8, first Paragraph, 1- 3, apply *mutatis mutandis* also as regards

1. a registered trade name that is being used in commercial activities,
2. such a name or a business symbol other than one protected pursuant to Chapter 1, Article 8, if the protection applies within a considerable part of the country.

Article 10. A trademark may not be registered if it contains or consists of

1. something that is likely to convey the impression of being someone else's trade name,
2. something that is likely to convey the impression of being someone else's distinctive family name, generally known artistic name or similar name, if the use of the trademark would cause disadvantage for the holder of the name and if the name does not obviously relate to someone who is long deceased,
3. a picture of someone else that does not obviously relate to someone who is long deceased,
4. something that violates someone else's copyright in a literary or artistic work or some else's right in a photographic picture or in a design.

Article 11. The provisions of Articles 8 to 10 do not constitute an obstacle to registration if the holder of the earlier right consents to the registration.

Chapter 5. International Trademark Registration

Article 8. If the Patent and Registration Office receives a notification from the International Bureau to the effect that someone has applied for an international trademark registration to be extended to Sweden, the Office shall examine whether there exists any obstacle to this.

An obstacle to the extension to Sweden of the international trademark application exists if there would have been an obstacle to a national registration of the trademark pursuant to Chapter 2, Articles 4 to 11.

If the Patent and Registration Office considers that an obstacle exists under the second Paragraph, the Office shall inform the International Bureau that the international trademark registration cannot, wholly or in part, be extended to Sweden. Such information shall be given within 18 months from the date of the notification and contain the grounds why the registration cannot be extended here.

Article 9. If the Patent and Registration Office has informed the International Bureau under Article 8, third Paragraph, the Office shall not earlier than three months after the information was transmitted decide that the international trademark registration shall not, wholly or in part, extend to Sweden if at that point in time an obstacle referred to in Chapter 2, Articles 4 to 11 still exists.

Article 10. If no obstacle referred to in Chapter 2, Articles 4 to 11 exists, the Patent and Trademark Office shall enter the trademark in the Trademark Register and publish a notice that the international trademark registration is valid in Sweden. If the Patent and Trademark Office has decided that the international trademark registration shall partly not be valid in Sweden, the entry of the trademark in the Trademark Register and the publication of a notice shall concern only the remainder of the goods or services when the decision has taken legal force.

Article 15. After an opposition has been filed, the Patent and Registration Office shall decide that the international trademark registration shall, wholly or in part, not extend to Sweden if an obstacle referred to Chapter 2, Articles 4 to 11, exists to its extension here. If no such obstacle exists, the opposition shall be rejected. An opposition that is wholly or in part based on an obstacle referred to in Chapter 2, Articles 8 to 10, shall be rejected in those parts if it has been filed by someone who does not act in his own interest and the holder of the registration so requests.

A decision that the registration shall not extend to Sweden may be based only on a circumstance that has been communicated to the International Bureau within 18 months from the date of the notification under Article 8, first Paragraph. If the time for opposition has expired after that time limit, the decision may nevertheless be based on circumstances that have been communicated to the International Bureau within a month from the expiry of the time limit for opposition. This applies on condition that the Patent and Registration Office within the time limit of 18 months has informed the International Bureau that a notification about such a decision may be communicated later.

If, due to an opposition, the Patent and Registration Office, decides that the registration shall, wholly or in part, not extend to Sweden, the trademark shall to a corresponding extent be removed from the Trademark Register when the decision has taken legal force. A notice about the decision shall be published.

BILAGA

Registreringsnummer: 1313041
Registreringsdatum: 2016-04-14
Ansökningsnummer: 1313041
Ingivningsdatum: 2016-04-14

XIAOMI

Märkestyp: Figurmärke

Lydelse: XIAOMI

Klassificering:

7: Draining machines; grinders (machines); milking machines; animal shearing machines; sawing machines; paper machines; printing machines; machines for the textile industry; dyeing machines; tea processing machines; electric food preparation machines; cigarette machines for industrial purposes; leather tanning machines; leather paring machines; ironing machines; bicycle assembling machines; machines for the making of pottery; engraving machine; battery operated spraying machines; mechanical rope reels; machines for coiling ropes; pulleys of metal for use with rope (parts of machines); rope making machines; machines for packaging; mixers (machines); dishwashers; soybean reaping cutters (machines); industrial washing machines; washing machines for household purposes; washing machines incorporating drying facilities; machines for glass working; glassware manufacturing machines; electromechanical machines for chemical industry; cutting machines; apparatus for use in drilling; apparatus for lifting; machine tools for use in the maintenance of electric installations; die-casting machines; steam engines; carburetors; wind turbines; industrial sewing machines; knives (parts of machines); industrial robots; electric scissors; bicycle dynamos; machines for cleaning cooling air filters in engines; centrifuges; pressure controllers (regulators) being parts of machines; pressure controllers (valves) being parts of machines; air compressors; door closers, electric; electric gas bearing; electric welding machines; instruments (machines) for cleaning the exterior of vehicles; instruments (machines) for cleaning the interior of vehicles; cleaning machines for industrial installations; cleaning machines for pipe-lines; cleaning machines for machine tools; electric cleaning machines; apparatus for the removal of dust from buildings; electric dust removing (cleaning) apparatus; dust removing installations for cleaning purposes; dust separators; apparatus (machines) for filtering; curtain drawing devices, electrically operated; electric shoe cleaning (polishing) machines; electroplating machines.

11: Electric lamps; lighting lamps; lighting apparatus and installations; lighting devices for showcases; lampshades; flashlights; apparatus for the lighting of vehicle; germicidal lamps for air purification; electric cookers; cooking apparatus and installations; kitchen stoves; cooking ovens; electric pressure cookers; electric kettles; water heaters; refrigerators; refrigeration installations; refrigeration units; air filtering apparatus; air conditioning apparatus; air filtration installations; air dryers; clothes dryers; dryers for the hands using a warm air drying stream; drying apparatus; air conditioning fans; electric cooling fans; ventilation (air-conditioning) installations and apparatus; apparatus for ventilating vehicles; electric fans; electric hair dryers; hot water heaters; electric heating apparatus; installations for heating consisting of halogen heating devices; heaters for heating irons; electric heaters; apparatus for water supply purposes; fireplaces, domestic; tap water faucets; apparatus for heating; temperature control apparatus (valves) for central heating radiators; automatic watering installations; bath installations; bath fittings; sanitary apparatus and installations; toilets [water-closets]; apparatus for disinfection; apparatus for water purification; apparatus for water filtering; machines for the processing (purification) of sewage; water softeners (apparatus); disposable sterilization pouches; portable electric heaters; lighters.

18: Fur; bags; travel box; backpack; purse (wallet); shopping bag; handbags; travel bag; luggage; rucksack; suitcases; sport bags; packaging bottle bags [envelopes, pouches] of leather; furniture upholstery leather; leather for furniture; leather strap, umbrella, umbrella cover; alpenstock; stick.

Innehavare: Xiaomi Singapore Pte. Ltd. , 12 Marina View #23-01 Asia Square Tower 2
Singapore 018961, Singapore.

BILAGA

Registreringsnummer: 014584965

Registreringsdatum: 2016-01-11

Ansökningsnummer: 014584965

Ingivningsdatum: 2015-09-23

Märkestyp: Ordmärke

Lydelse: XIAOMAN

Klassificering:

9: Apparater, instrument och kablar för elektricitet; Anordningar för behandling av elektricitet; Dykutrustning; Utrustning för informationsteknologi samt audiovisuella varor; Magneter, magnetiserare samt avmagnetiserare; Mättnings-, detekterings- och övervakningsinstrument, indikatorer och kontrollanordningar; Anordningar för navigering, vägledning, spårning, målsökning och kartografi; Optiska anordningar, förstärkare och korrektorer; Inspelningar; Anordningar för säkerhet, skydd och signalering; Utrustning för vetenskaplig forskning och laboratorier, undervisningsapparater och simulatorer.

18: Resgoods, väskor, plånböcker och andra artiklar för bärhjälp; Sadelmakerivaror, piskor och djurutstyrslar; Korvskind och imitationer därav; Paraplyer och parasoller; Djurhudar och pälskinn; Askar tillverkade av läder; Askar av läder eller av läderpapp; Tjockt läder [delar av djurhud]; Fjäderdamasker av läder; Boskapshudar; Sämskinn, ej för rengöringsändamål; Hakremmar av läder; Beredda skinn; Syntetpäls; Möbelöverdrag av läder; Pälsar till försäljning i partier; Remmar (Läder -); Guldsagarhinnor; Läderimitation; Konstläder till försäljning i partier; Industriella förpackningsbehållare av läder; Getskinn; Läder och läderimitationer; Lädertyg; Läder för möbler; Läder för skor; Läderremmar; Läder till försäljning i partier; Läderstroppar; Lädernoddar; Läder, obearbetat eller delvis bearbetat; Konstläderpapp; Mollskinn [skinnimitation]; Polyuretanläder; Tuggsaker av råläder för hundar; Ark av konstläder för användning i tillverkning; Halvbearbetad päls; Ark av läder för användning vid tillverkning; Axelbälten; Axelremmar; Remmar för skridskor; Remtyg för soldatutrustning; Remmar tillverkade av konstläder; Dubbar av läder; Skoningar av läder för möbler; Ventiler av läder; Bearbetade eller delvis bearbetade hudar och annat läder.

21: Borstar och artiklar för borstmakeri; Artiklar för kosmetik, hygien och badrum; Redskap för rengöringsändamål; Statyer, figuriner, plaketter och konstföremål, gjorda av material som porslin, terrakotta eller glas, ingående i klassen; Bordsserviser, köksredskap och behållare; Obearbetat och delvis bearbetat glas, ej specificerade efter användningsområde; Akvarier och terrarier; Anordningar för skadedjur, insekter och ohyra; Utfodrare för djur som aktiveras av djuret; Foderautomater för boskap; Dricksvattenautomater för boskap; Fågelbad; Fågelbad, ej konstruktioner; Fågelburar för tama fåglar; Fågelmatare; Fågelmatare för matning av vilda fåglar; Fågelfoderutmatare för matning av burfåglar; Fågelmatningsanordningar i form av behållare; Fågelburar; Burar för husdjur; Burar av metall för hemanvändning; Kattsandlådor; Kammar för djur; Kammar för användning på husdjur; Matbehållare för fåglar; Ryktskrapor; Hundmatsskopor; Dryckeskar; Elektroniska matskålar för husdjur; Tråg; Fodertråg för boskap; Fodertråg av metall till boskap; Filter för användning i kattlådor; Matbehållare för husdjursmat; Guldfiskskålar; Ströskopor för husdjur; Lådor för fågelströ; Fodertråg för djur; Krubbor för kor; Krubbor för hästar; Krubbor för får; Metallpannor för boskap; Ruvningsägg (konstgjorda); Icke-mekaniska djurmatningsanordningar; Icke-mekaniserade dricksvattenanordningar för sällskapsdjur i form av bärbara vatten- och vätskedispensrar; Pinnar för fågelburar; Foder- och dryckesskålar för husdjur; Grishoar; Plastbehållare för utmatning av vatten till sällskapsdjur; Plastbehållare för utmatning av mat till husdjur; Plastlådor för användning som strölädor för katter; Ringar för märkning av höns; Hönstråg; Fågelmärkningsringar; Skopor för avlägsnande av djuravföring; Skopor för avlägsnande av husdjursavfall; Matningsanordningar för små djur; Vattenhoar för boskap; Trådburar för sällskapsdjur; Batteridrivna luddborttagare; Stövelknektar; Stövelsträckare av trä; Stövelblock [sträckare]; Handsk- och skoknäppare; Hängare för torkning av kläder; Klädhängare utformade särskilt för specialkläder; Torkställningar för kläder; Klädnypor; Sträckare för kläder; Elektriska luddborttagare; Strykjärnsställ; Ramar att torka klädesplagg på och för att bevara deras form; Handsksträckare; Formsydd överdrag för strykbrädor; Strykbrädor; Strykdukar; Torkställningar för tvätt; Skjortsträckare; Skohorn; Skoblock; Slipspressar; Byxpressar; Byxsträckare; Vaxpoleranordningar, icke-elektriska, för skor; Bukethållare; Skålar för blomdekorationer; Skålar för växter; Kompostbehållare för hushållsbruk; Behållare för blommor; Höljen för blomkrukor, ej av papper; Blomkorgar; Blomvaser; Blomvaser av ädelmetall; Krukhållare; Blomkrukor; Blomsprutor; Knoppvaser; Blomvaser av ädelmetall; Trädgårdssprutor; Trädgårdshandskar; Glasvaser; Växthussprutor; Hållare för blommor; Hållare för blommor och plantor

[blomsterarrangemang]; Inomhusterrarier [växtodling]; Inomhusterrarier; Jardingärer av lergods; Jardingärer av glas; Munstycken för vattenslangar; Sprinklers för vattenkannor; Sprinkelmunstycken för vattenslangar; Växtkorgar; Växtsprutor; Planterare av lera; Blomkrukor av keramik; Planterare av glas; Blomkrukor av plast; Plastlock för planteringskrukor; Sprejmunstycken av plast; Jardingärer av finare porslin; Stödpinnar till krukväxter; Omplanteringsbehållare för växter; Fat till blomkrukor; Insatser för såningstråg; Fröbrickor; Sprejmunstycken till trädgårdsslangar; Spridarkäppar till trädgårdsslangar; Spridare för applicering på trädgårdsslangar; Sprinklers; Vattenspridare för blommor och plantor; Vaser; Vattensprutor för besprutning av växter; Vattenkannor; Vattningsredskap; Fönster/balkonglådor.

Innehavare: Shenzhen Hemanxin Shiye Youxian Gongsi, RM314,400
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