



NOTIFICATION OF EX OFFICIO REFUSAL

Notified to the International Bureau of
the World Intellectual Property Organization (WIPO)
under Rule 17 (2) and 17 (5)(e) of the Common Regulations

NOTE: This notification of ex officio refusal shall be deemed to include a statement in accordance with Rule 18ter (2) (ii) or (3) of the Common Regulations. Any request for review shall be filed to the Trademark Review and Adjudication Board, through a qualified Chinese agency or attorney, within 15 days from receipt of this notification.

- I. Office which pronounces the refusal:
Trademark Office
State Administration for Industry and Commerce

1, Chama Nanjie, Xichengqu, Tel: 8610-63219000
Beijing, 100055
People's Republic of China



- II. Date of the refusal pronounced: 2017/08/15
- III. Our reference number: GJZCG1075564BHYW01
- IV. International registration number: 1075564
- V. Date of notification to China: 2016/12/22
- VI. Basic national registration number: 305 19 325.2/12
Basic national application number:
- VII. The mark is refused for the following goods and/or services:
3: All the goods;
4: All the goods;
6: All the goods;
7: lawnmowers;
9: All the goods;
12: Car parts and car accessories; batteries; battery charger; battery jumper cable; cable; battery warmer; battery tester; indoor and outdoor thermometers; brake pads; brake segment sets; brake discs; windscreen wipers; car seats; seat belts; child seats; snow chains; ski racks; roof racks; camper vans; bicycles; bicycle parts and bicycle accessories, included in this class, in particular baskets and pumps for bicycles.;
35: All the services;
- VIII. Reason(s) of refusal:
Prior national and/or international mark(s). (See Item X)
This mark is similar to the earlier mark(s).
The goods and/or services listed in Column VII are similar to those of the earlier application and/or earlier registration.
- IX. Applicable legal provisions of the refusal:
Article(s): (See the excerpts of the laws and regulations)
Trademark Law Article 30
- X. Informations concerning the earlier mark(s):

Mark:

美空 MOKOO

Date of application:

2009/01/04

Number of application:

7147913

Date of priority:

Date of registration:

2010/07/14

Number of registration:

Non-Madrid 7147913

Name of the holder:

GUANG DONG QIAO MEI REN HUA ZHUANG PIN SHI YE YOU XIAN GONG SI

Address of the holder:

GUANG DONG SHENG SHAN TOU SHI CHAO NAN QU XIA SHAN GUANG XIANG LU
ZHONG DUAN DI SAN CHUANG CHINA

Goods/services: class 3

口红；美容用面膜；香料；洗发液；香水；清洁制剂；化妆品；牙膏；成套化妆用具；洗面奶；

Device:



Mark:

美道 MOTAO

Date of application:

2009/12/07

Number of application:

7893924

Date of priority:

Date of registration:

2011/04/28

Number of registration:

Non-Madrid 7893924

Name of the holder:

MEI DAO (SHANG HAI) SHI HUA CHAN PIN YOU XIAN GONG SI

Address of the holder:

SHANG HAI SHI PU DONG XIN QU ZHOU DONG LU 2 6 6 HAO A ZUO CHINA

Goods/services: class 4

矿物油；工业用油；切削液；漆油；乳化油；润滑油；润滑脂；导热油；齿轮油；

▲已删商品▲

石油(原油或精炼油)；

Device:



Mark:

MOOTO

Date of application:

2007/03/22

Number of application:

5955164

Date of priority:

Date of registration:

2010/06/07

Number of registration:

Non-Madrid 5955164

Name of the holder:

MOOTO USA WOODEN PRODUCTS INC

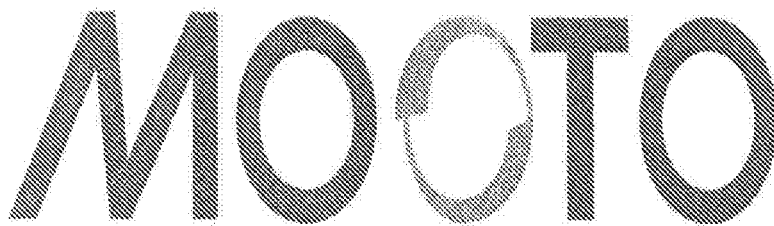
Address of the holder:

EVEIYN O.LEE 9680 FLAIR DRIVE ELMONTE,CALITMIA91731-3005

Goods/services: class 6

钢板; 金属螺丝; 门环; 金属门闩; 金属门把手; 保险柜; 金属工具箱(空); 不发光金属门牌;
▲已删商品▲
金属门; 金属地板;

Device:

The logo for MOOTO is displayed in a large, bold, sans-serif font. The letters are filled with a fine, cross-hatched pattern, giving it a textured appearance. The word 'MOOTO' is centered within a large rectangular frame.

Mark:

迈拓 MYTOO

Date of application:

2010/10/22

Number of application:

8766567

Date of priority:

Date of registration:

2011/11/14

Number of registration:

Non-Madrid 8766567

Name of the holder:

ZHOU WEI XIANG 3 2 0 5 2 5 1 9 7 0 0 9 2 3 1 5 1 X

Address of the holder:

JIANG SU SHENG WU JIANG SHI ZHEN ZE ZHEN QI XIN CUN (5) ZHUANG SHENG
GANG 2 8 HAO CHINA

Goods/services: class 6

耐磨金属；金属支架；金属建筑材料；金属天花板；钢丝；金属塞；金属法兰盘；金属箱；金属标志牌；
▲已删商品▲
钢管；

Device:

迈拓
MYTOO

Mark:

METOO

Date of application:

2016/01/14

Number of application:

18888816

Date of priority:

Date of registration:

2017/05/21

Number of registration:

Non-Madrid 18888816

Name of the holder:

SHEN ZHEN SHI HUI SEN WAN JU YOU XIAN GONG SI

Address of the holder:

GUANG DONG SHENG SHEN ZHEN SHI LONG GANG QU HENG GANG JIE DAO SI LIAN
SHE QU PAI BANG ZHUAN CHANG GONG YE QU 1 # CHANG FANG CHINA

Goods/services: class 7

农业机械；水力动力设备；木材加工机；造纸机；印刷机；工业用卷烟机；
▲已删商品▲
纺织工业用机器；染色机；精加工机器；清洁用除尘装置；

Device:



Mark:

当米诺 MOTO

Date of application:

2011/09/14

Number of application:

9961277

Date of priority:

Date of registration:

2015/08/14

Number of registration:

Non-Madrid 9961277

Name of the holder:

MOTOROLA TRADEMARK HOLDINGS,LLC

Address of the holder:

222 W. MERCHANDISE MART PLAZA, SUITE 1800 CHICAGO, IL 60654, USA

Goods/services: class 9

手机；智能手机；电池充电器；电源适配器；计算机硬件；计算机软件(已录制)；计算机用接口；笔记本电脑用包；照相机(摄影)；摄影机；幻灯；电影摄影机；照相机背带；录像机；电视机；立体声装置；测量装置；电视游戏卡；电池；蓄电池；蓄电池；电容器；电线；电缆；电影胶片(已曝光)；录像带；录音带；唱片；传真机；电话机；电子芯片；无线电发射机；借记卡(磁性识别卡或集成电路卡)；计算机；头戴耳机；放映设备；缆线；报警器；遥控仪器；

Device:

MOTO 当米诺

Mark:

MOTO

Date of application:

2013/11/18

Number of application:

13557329

Date of priority:

2013/05/17

Date of registration:

2015/05/07

Number of registration:

Non-Madrid 13557329

Name of the holder:

MOTOROLA TRADEMARK HOLDINGS,LLC

Address of the holder:

222 W.MERCHANDISE MART PLAZA, SUITE 1800 CHICAGO, IL 60654, USA

Goods/services: class 9

计算机；平板电脑；电话；发射器（电信）；移动电话；电子信号发射器；智能手机；发射机（电信）；平板电脑；信号转发器；计算机；计算机外围设备；全球定位系统（GPS）设备；无线电话；稳压电源；寻呼机；双向无线电设备；计算机软件（已录制）；无线电接收器；已录制的计算机程序（程序）；电开关；电子笔记本；交换机；遥控信号用电动装置；计算机键盘；耳机；电缆；头戴式耳机；电器联接器；麦克风；扬声器；手机带；通用数据库管理用计算机软件；便携式计算机专用包；计算机电子商务软件(使用户通过全球计算机网络或电信网络在电子商务交易中实现安全订购和付款)；便携式计算机用套；通讯领域的计算机和移动电话培训和产品支持用计算机软件；内部通讯装置；实现计算机维护工作的计算机实用软件；网络通讯设备；移动电话用计算机游戏软件；以音乐、电影、动画、电子书籍、游戏为特色的大众娱乐用计算机软件和程序；向通讯领域的用户发布关于文本、图片、视频和声音的信息和交互式多媒体内容的计算机软件；管理和操作无线通信设备用计算机软件和程序；通过全球计算机网络和全球通讯网络访问、查询、索引、检索信息和数据、浏览和导航网站用计算机软件；发送、接收短信和电子邮件以及从数据中过滤非文本信息用计算机软件；调制解调器；电池；电池充电器；天线；照相机；数码照相机；数字视频摄像机；

Device:

MOTO

Mark:

4MOTO

Date of application:

2004/11/16

Number of application:

4365511

Date of priority:

Date of registration:

2017/11/07

Number of registration:

Non-Madrid 4365511

Name of the holder:

HUANG MENG YU 3 3 0 3 0 2 7 3 0 3 1 4 4 0 2

Address of the holder:

ZHE JIANG SHENG WEN ZHOU SHI HUAN CHENG DONG LU MI LI SHA HUA YUAN D
CHUANG 3 0 3 SHI CHINA

Goods/services: class 12

摩托车; 自行车; 雪撬(车); 船;

▲已删商品▲

拖车(车辆); 电动车辆; 越野车; 遥控车(非玩具); 小汽车; 陆地车辆发动机;

Device:



Mark:

MOTO 2

Date of application:

Number of application:

1130176

Date of priority:

2012/07/27

Date of registration:

2012/08/07

Number of registration:

Madrid 1130176

Name of the holder:

DORNA SPORTS, S.L.

Address of the holder:

Pinar, 7, planta 6 E-28006 Madrid (ES)(Spain)

Goods/services: class 12

婴儿车；儿童车；

▲待删商品▲

车辆；属此类的车辆部件和配件；陆、空或水用运载器；车辆安全气囊；车辆防盗器；车辆座椅；车辆防滑装置；车辆用的遮光装置；车辆安全带；车辆用座椅和座椅套；车辆用的减震器和悬挂弹簧；车辆用链条；车辆用变速箱和传动链；气泵（车辆配件）；高尔夫球手推车，车身和车架；卡丁车；汽车；脚踏车辆用驮篮；车辆用遮阳帘；车辆用的篷布；自行车和自行车配件；车辆喇叭；充气轮胎内胎；车辆用玻璃窗；车辆用充气轮胎和气门嘴；汽油油箱，车辆用刹车油和液；挡泥板；车辆用转向灯；车辆罩；摩托车和自行车用车把；车辆用升降后车门；车辆行李架；车辆行李网；后视镜；摩托车和自行车用坐垫和坐垫套；车架；车辆油箱盖；汽车两侧脚踏板；车辆刹车和刹车垫；车辆、摩托车用轮辋和轮箍；车辆方向盘；车辆防盗警铃；车辆刹车；摩托车；运输三轮脚踏车；机动自行车，低座小摩托车；车辆牵引车；摩托车边车；车辆用发动机；车辆用的电动机；车辆轮辐；车辆传动机械结构；摩托车撑脚；摩托车和自行车把手；摩托车坐垫套；

Device:



Mark:

MOFOO

Date of application:

2010/08/09

Number of application:

8557993

Date of priority:

Date of registration:

2011/09/21

Number of registration:

Non-Madrid 8557993

Name of the holder:

ZHE JIANG RI BAO BAO YE JI TUAN (ZHE JIANG RI BAO SHE)

Address of the holder:

ZHE JIANG SHENG HANG ZHOU SHI XIA CHENG QU TI YU CHANG LU 1 7 8 HAO CHINA

Goods/services: class 35

广告传播；数据通讯网络上的在线广告；商业信息代理；为消费者提供商业信息和建议(消费者建议机构)；价格比较服务；替他人推销；人员招收；商业场所搬迁；计算机数据库信息化；替他人预定电讯服务；

Device:

mofoo

Relevant Provisions of the Law and the Regulations

(Excerpts)

Trademark Law of China

Article 10 The following signs shall not be used as trademarks:

- (1) those identical with or similar to the State name, national flag, national emblem, national anthem, military flag, military emblem, military anthem, or decorations etc, of the People's Republic of China, and those identical with the names or symbols of the Central State government organizations, or with the names of the particular venues, where the Central State government organizations are located, or with the names or graphs of the symbolic buildings of the Central State government organizations;
- (2) those identical with or similar to the State names, national flags, national emblems or military flags etc, of foreign countries, unless consent has been given by the government of the relevant country;
- (3) those identical with or similar to the names, flags or emblems etc, of international intergovernmental organizations, unless consent has been given by the relevant organization or the public is not likely to be misled by such use;
- (4) those identical with or similar to official signs or hallmarks indicating control and warranty, unless authorization has been given;
- (5) those identical with or similar to names or symbols of the Red Cross or the Red Crescent;
- (6) those having the nature of discrimination against any nationality;
- (7) those having the fraudulence, which will easily mislead the public as to the features such as qualities of the goods, or the places of the origins;
- (8) those detrimental to socialist morality or customs, or having other unhealthy influences.

The geographical names of the administrative divisions at or above the county level or the foreign geographical names well-known to the public shall not be used as trademarks, but such geographical names as have otherwise meanings or as an element of a collective mark or a certification mark shall be

exclusive. Where a trademark using any of the above-mentioned geographical name has been approved and registered, it shall continue to be valid.

Article 11 The following signs shall not be registered as trademarks:

- (1) those which consist exclusively of the generic names, designs, or models of the goods in respects of which the trademark is used;
- (2) those which consist exclusively of direct indications of the quality, primary raw material, functions, intended purpose, weight, quantity or other characteristics of goods;
- (3) other signs which are devoid of any distinctive character.

Where trademarks under the preceding paragraph have acquired distinctiveness through use and become easily distinguishable, they may be registered as trademarks.

Article 12 Where a three-dimensional sign is applied for registration of a trademark, it shall not be registered if it consists exclusively of the shape which results from the nature of the goods themselves, the shape of goods which is necessary to obtain a technical result, or the shape which gives substantial value to the goods.

Article 16 Where a trademark contains or consists of a geographical indication with respect to goods not originating in the place indicated, misleading the public as to the true place of origin, the application for registration shall be refused and the use of the mark shall be prohibited. But for those marks that have obtained registration in good faith shall continue to be valid.

Geographical indications mentioned in the preceding paragraph are indications that identify a particular good as originating in a region, where a given quality, reputation or other characteristics of the goods is essentially attributable to its natural or human factors.

Article 22 An applicant for the registration of a trademark shall, in accordance with the prescribed classification of goods, in the application, indicate the class(es) and the indications of goods in respect of which the trademark is to be used.

An applicant can apply for the registration

of the same trademark on the different classes of goods through one application.

Applications for trademark registration and other related documents shall be submitted in writing or electronic format.

Article 23 Where a registered trademark needs to acquire the exclusive right to be used in respect of goods beyond the approved range of use, a new application for registration shall be filed.

Article 30 Where a trademark the registration of which has been applied for is not in conformity with the relevant provisions of this Law, or it is identical with or similar to the trademark of another party that has, in respect of the same or similar goods, been registered or, after examination, preliminarily approved, the Trademark Office shall refuse the application and shall not publish the said trademark.

Article 31 Where two or more applicants apply for the registration of identical or similar trademarks for the same or similar goods, the preliminarily approval, after examination, and the publication shall be made for the trademark that was first filed. Where applications are filed on the same day, the preliminarily approval, after examination, and the publication shall be made for the trademark that was used earliest, and the applications of the others shall be refused and their trademarks shall not be published.

Article 33 The prior right owner or any interested party who believes that the trademark stands in violation of the provisions of second and third paragraphs of Article 13, Article 15, first paragraph of Article 16, Article 30, 31 and 32 of this law, or any party who believes that the trademark stands in violation of the provisions of Article 10, 11 and 12 of this law may, within three months from the date of the publication, file an opposition against the trademark that has, after examination, been preliminarily approved. If no opposition has been filed at the expiration of the specified period, the registration shall be approved, a certificate of trademark registration shall be issued and the trademark shall be published.

Article 35 Where it is decided that the registration shall be approved by the Trademark

Office, a certificate of trademark registration shall be issued and the trademark shall be published. Where the Opponent is dissatisfied with the decision, he or it may, pursuant to Article 44 and 45 of this law, apply for a declaration that the trademark is invalid to the Trademark Review and Adjudication Board.

Where it is decided that the registration shall not be approved by the Trademark Office and the Opposed party is dissatisfied with the decision, he or it may, within fifteen days from receipt of the notification, apply for a review to the Trademark Review and Adjudication Board. The Trademark Review and Adjudication Board shall make a decision within twelve months from receipt of the application and notify both the Opponent and the Opposed party in writing. The administrative authority for industry and commerce under the State Council may grant a six-month extension under certain circumstances. . Where the Opposed party is dissatisfied with the decision of the Trademark Review and Adjudication Board, he or it may, within thirty days from receipt of the notification, institute legal proceedings with the people's court. The people's court shall notify the Opponent as a third party to the litigation.

Article 42 Where a registered trademark is assigned, the assignor and assignee shall sign an agreement for the assignment and jointly file an application with the Trademark Office. The assignee shall guarantee the quality of the goods in respect of which the registered trademark is used.

When a registered trademark is to be assigned, the trademark registrant shall assign in a lump all of its similar trademarks in respect of the identical goods, or, identical or similar trademarks in respect of the similar goods.

With respect to applications for the assignment of registered trademarks, which may produce confusion or other adverse effects, the Trademark Office shall refuse them, and shall notify the applicants in writing and give the reasons therefor.

The assignment of a registered trademark shall be published after it has been approved. The assignee shall enjoy the exclusive right to use the trademark from the date of publication.

Article 50 Where a registered trademark has been cancelled, invalidated or has not been renewed at the expiration, the Trademark Office shall, during one year from the date of the cancellation, invalidation or expiration, approve no application for the registration of a trademark that is identical with or similar to the said trademark.

Regulations for the Implementation of Trademark Law

Rule 13 Anyone who applies for registration of a trademark shall file an application based on the published Classification of Goods and Services. For each application for registration of a trademark, the applicant shall submit to the Trademark Office one copy of the Application for Trademark Registration and one copy of reproduction of the trademark; if applying for the registration of the combination of colors or a sign with the designated color or colors as a trademark, one copy of colored reproduction of the trademark and one copy of the black and white design shall be submitted; if applying for the registration of trademark without designated color or colors, the black and white design shall be submitted.

The reproductions of a trademark must be clear, easy to be pasted up, printed on smooth and clear durable paper or use photographs as a substitute, and the length and breadth of which shall be not more than ten centimeters and not less than five centimeters each.

If applying for the registration of a three-dimensional sign as a trademark, the applicant shall make a statement in the application, explain how to use the trademark, and submit a reproduction including perspectives of at least three different sides of the mark thereof by which the three-dimensional shape can be determined.

If applying for the registration of the combination of colors as a trademark, the applicant shall make a statement in the application, and explain how to use the trademark.

If applying for the registration of a sound as a trademark, the applicant shall make a

statement in the application, submit the audio reproduction as requested, describe the sound and explain how to use the trademark. The description shall describe the said sound by musical notation or numbered musical notation with explanatory words; if the said sound could not be described by musical notation or numbered musical notation, it shall be describe in words. The trademark description shall be in conformity with the sound sample.

If applying for the registration of a collective mark or a certification mark, the applicant shall make a statement in the application, and submit the documents certifying the qualifications of the subjects and the rules on the administration of the use of the mark.

Where a trademark is, or consists of, foreign words, their Chinese meanings shall be indicated.

Rule 15 The class(es) and indications of goods or services shall be listed in the application as specified in the Classification of Goods and Services; where any goods or services are not included in the Classification of Goods and Services, a description of the goods or services in question shall be attached to the application.

Applications for trademark registration and other related documents submitted in writing shall be typewritten or printed.

The preceding paragraph applies to other trademark affairs.

Rule 19 Where two or more applicants apply respectively on the same day for the registration of identical or similar trademarks in respect of the same or similar goods, both or all of the applicants shall, within 30 days from the date of receipt of the notification of the Trademark Office, submit the evidence of prior use of such trademarks before applying for registration. Where the use started on the same day or none is yet in use, both or all of the applicants may, within 30 days from the date of receipt of the notification of the Trademark Office, conduct consultations on their own and submit a written agreement to the Trademark Office; if they are not willing to conduct consultations or they fail to reach an agreement through consultations, the Trademark Office shall notify both or all of the applicants to determine one of them by drawing

lots and refuse the applications for registration filed by others. Where an applicant has been notified by the Trademark Office but fails to participate in the drawing of lots, the application filed by such an applicant shall be considered abandoned, and the Trademark Office shall notify the applicant in writing who does not participate in the drawing of lots.

Rule 43 Anyone who applies for the territorial extension to China, and requests for the protection of a three-dimensional sign, combination of colors or sound as a trademark, or the protection of collective trademark or certification trademark, within three months from the date of recording the trademark in the International Register, shall submit the materials required by Rule 13 through the trademark agency established in accordance with laws in China. If the applicant fails to submit the relevant materials within the time limit, such application shall be refused.

Rule 45 The opponent who is in conformity with Article 33 of The Trademark Law may file an opposition to the Trademark Office against a request for territorial extension to China within 3 months from the first day of the next month following the publication of the International Registration Gazette by the World Intellectual Property Organization.

The Trademark Office shall notify the International Bureau the opposition in the form of provisional refusal before the expiry of the applicable refusal period.

The Opposed party may make a response within 30 days from receipt of the provisional refusal transmitted by the International Bureau. The response and other related evidence shall be submitted through the trademark agency established in accordance with laws in China.

Rule 47 For the assignment of territorial extensions designating China, the assignee shall have a real and effective industrial or commercial establishment in, or be domiciled in a contracting party, or be a national of a contracting state or a state member of a contracting organization.

Where an assignor fails to assign in a lump all his or its identical or similar marks in respects of the same or similar goods or services,

the Trademark Office shall notify the holder of international registration to rectify the situation within 3 months from the date of the notification; if the situation is not rectified at the expiration of the time limit, or if the assignment of a trademark is likely to produce confusion or bears other adverse effects, the Trademark Office shall decide that the said assignment has no effect in China, and declare it to the International Bureau.

Rule 48 For the limitation of list of goods and services of territorial extensions designating China, if the limitation does not comply with the requirements on the classification of goods or services enforced in China, or enlarges the original list of goods and services, the Trademark Office shall decide that the limitation has no effect in China, and declare it to the International Bureau.

Administrative Reconsideration Law

Article 9 Any citizen, legal person or any other organization, who considers that a specific administrative act has infringed upon his or its lawful rights and interests, may file an application for administrative reconsideration within 60 days from the day when he or it knows the specific administrative act, except that the time limit prescribed in laws exceeds 60 days.

If the time limit prescribed by law is delayed due to force majeure or other special reasons, the time limit shall be accounted continuously from the day when the obstacle is removed.

Administrative Procedure Law

Article 46 If a citizen, a legal person or any other organization brings a suit directly before a people's court, he or it shall do so within six months from the day when he or it knows that a specific administrative act has been undertaken, except as otherwise provided for by law.