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Government of India
TRADE MARKS REGISTRY
Boudhik Sampada Bhavan, S.M. Road, Antop Hill,
Mumbai-400 037, India.

NOTIFICATION OF PROVISIONAL REFUSAL OF PROTECTION OF AN INTERNATIONAL REGISTRATION DESIGNATING INDIA
Rule 17(1) of the Common Regulations.

I.	Office making the notification:	TRADE MARKS REGISTRY, GOVERNMENT OF INDIA
II.	Number of the international registration: 1368861 (Reference IRDI No allotted to this international registration by the TMR India) 3660342	
III.	Name of the holder (or other information enabling the identity of the internationalregistration to be confirmed): Bio-Rad Medical Diagnostics GmbH	
IV.	Provisional refusal based on an *ex officio* examination	
V.	Provisional refusal for all the goods and/orservices	
VI.	Grounds for refusal [(where applicable)]: 11(1) - The objection is raised under S 11 (1) of the Trade Marks Act, 1999, as the mark is identical with or similar to earlier marks in respect of identical or similar description of goods or services and because of such identity or similarity there exists a likelihood of confusion on the part of the public.,	

VII. Information relating to an earlier mark

APPL NO	CLASS	CONFLICTING MARK	JOURNAL No	PROPRIETOR NAME	PROPRIETOR ADDRESS	STATUS	TM IMAGE
GOODS SERVICES							
1450542	9	IWEB	1736	APPLE INC.	1 INFINITE LOOP, CUPERTINO, CALIFORNIA 95014, UNITED STATES OF AMERICA.	Registered	IWEB iWeb
APPLICATION DATE : 04/05/2006		USER DATE :		Priority Claimed :			
GOODS/SERVICE : COMPUTER SOFTWARE FOR USE IN DEVELOPING WEB SITES; COMPUTER SOFTWARE TO HELP USERS CREATE, EDIT, ORGANIZE, SEARCH TRANSFER, PUBLISH AND SUBSCRIBE TO WEBLOGS, BLOGS, PODCASTS, WEB BROADCASTS AND NEWS AND INFORMATION FEEDS ON GLOBAL AND / OR LOCAL COMPUTER AND TELECOMMUNICATIONS NETWORKS; COMPUTER SOFTWARE FOR USE IN AUTHORIING, DOWNLOADING, TRANSMITTING, RECEIVING, EDITING, EXTRACTING, ENCODING, DECODING, PLAYING, STORING AND ORGANIZING AUDIO, VIDEO AND STILL IMAGES; COMPUTER SOFTWARE FOR AUTHORING							

VIII.	Corresponding essential provisions of the applicable law [(see text XII)]: Section : 11(1) , of Trade Mark 1999.

IX.	Information relating to subsequent procedure :	
	(i)	Time limit for response or for a request toreconsider the provisional refusal: one month from the date of receipt of provisional refusal by the holder of international registration.
	(ii)	Authority to which such request for review or appeal should be made: The response to, or a request for reconsiderationof , the provisional refusal must be sent by email at madrid.tmr@nic.in addressing to the Registrar of Trade Marks,Trade Marks Registry Mumbai
	(iii)	Indications concerning the appointment of arepresentative: The response to, or a request for reconsideration of, the provisional refusal must be filed through an agent or a representative whose address is within the territoryof India. The said agent may submit on behalf of the owner of the international registration the response or a request for reconsideration of the provisional refusal,submit the evidence of prior use of the trademark in India by the way of owner's affidavit or may agree to limit the scope of protection, or request for personal hearing.
	(iv)	In further communication with respect to the aforesaid International Registration,the IRDI No written should always be mentioned
X.	Date of the notification of provisional refusal: 09/11/2017	
XI.	Signature or official seal of the Office making the notification: FOR REGISTRAR OF TRADEMARK Florina S. Almeida Designation: EXAMINER Mumbai	

XII.	Corresponding essential provisions of the applicable law: Trade Marks Act, 1999 Section 9: Absolute grounds for refusal of registration: 1. The Trade marks – (a) Which are devoid of any distinctive character, that is to say, not capable of distinguishing the goods or services of one person from those of another person; (b) which consist exclusively of marks or indications which may serve in trade to designate the kind, quality, quantity, intended purpose, values, geographical origin or the time of production of the goods or rendering of the service or other characteristics of the goods or service; (c) Which consist exclusively of marks or indications which have become customary in the current language or in the bona fide and established practices of the trade, shall not be registered: PROVIDED that a trade mark shall not be refused registration if before the date of application for registration it has acquired a distinctive character as a result of the use made of it or is a well-known trade mark. (2) A mark shall not be registered as a trade mark if – (a) It is of such nature as to deceive the public or cause confusion; (b) It contains or comprises of any matter likely to hurt the religious susceptibilities of any class or section of the citizens of India; (c) It comprises or contains scandalous or obscene matter; (d) Its use is prohibited under the Emblems and Names (Prevention of Improper Use) Act, 1950. (3) A mark shall not be registered as a trade mark if it consists exclusively of – (a) the shape of goods which results from the nature of the goods themselves; or (b) the shape of goods which is necessary to obtain a technical result; or (c) the shape which gives substantial value to the goods. Section 11: Relative grounds for refusal of registration (1)Save as provided in section I2, a trade mark shall not be registered if, because of – (a)its identity with an earlier trade mark and similarity of goods or services covered by the trade mark; or (b)its similarity to an earlier trade mark and the identity or similarity of the goods or services covered by the trade mark, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark. Section 12: Registration in the case of honest concurrent use, etc. In the case of honest concurrent use or of other special circumstances which in the opinion of the Registrar, make it proper so to do, he may permit the registration by more than one proprietor of the trade marks which are identical or similar (whether any such trade mark is already registered or not) in respect of the same or similar goods or services, subject to such conditions and limitations, if any, as the Registrar may think fit to impose. Section 13: Prohibition of registration of names of chemical elements or international non-proprietary names No word – (a)which is the commonly used and accepted name of any single chemical element or any single chemical compound (as distinguished from a mixture) in respect of a chemical substance or preparation, or (b)which is declared by the World Health Organization and notified in the prescribed manner by the Registrar from time to time, as an international non-proprietary name or which is deceptively similar to such name, shall be registered as a trade mark and any such registration shall be deemed for the purpose of section 57 to be an entry made in the register without sufficient cause or an entry wrongly remaining on the register, as the circumstances may require. Section 14: Use of names and representations of living persons or persons recently dead Where an application is made for the registration of a trade mark which falsely suggests a connection with any living person, or a person whose death took place within twenty years prior to the date of application for registration of the trade mark, the Registrar may, before he proceeds with the application, require the applicant to furnish him with the consent in writing of such living person or, as the case may be, of the legal representative of the deceased person to the connection appearing on the trade mark, and may refuse to proceed with the application unless the applicant furnishes the registrar with such consent. Section 16: Registration of trade, marks as associated trade marks (1)Where a trade mark which is registered, or is the subject of an application for registration, in respect of any goods or services is identical with another trade mark which is registered, or is the subject of an application for registration, in the name of the same proprietor in respect of the same goods or description of goods or same services or description of services or so nearly resembles it as to be likely to deceive or cause confusion if used by a person other than the proprietor, the Registrar may, at any time, require that the trade marks shall be entered on the register as associated trademarks. (2)Where there is an identity or near resemblance of marks that are registered, or are the subject of applications for registration in the name of the same proprietor, in respect of goods and in respect of services which are associated with those goods or goods of that description and with those services or services of that description, sub-section (1) shall apply as it applies as where there is an identity or near resemblance of marks that are registered, or are the subject of applications for registration, in the name of the same proprietor in respect of the same goods or description of goods or same services or description of services. (3)Where a trade mark and any part thereof are, in accordance with the provisions of sub-section (1) of section 15, registered as separate trade marks in the name of the same proprietor, they shall be deemed to be, and shall be registered as, associated trade

marks.
(4)All trade marks registered in accordance with the provisions of sub-section (3) of section 15 as a series in one registration shall be deemed to be, and shall be registered as, associated trade marks.
(5)On application made in the prescribed manner by the registered proprietor of two or more trade marks registered as associated trade marks, the Registrar may dissolve the association as respects any of them if he is satisfied that there would be no likelihood of deception or confusion being caused if that trade mark were used by any other person in relation to any of the goods or services or both in respect of which it is registered, and may amend the register accordingly.

Section 17: Effect of registration of parts of a mark
(1)When a trade mark consists of several matters, its registration shall confer on the proprietor exclusive right to the use of the trade mark taken as a whole.
(2)Notwithstanding anything contained in sub-section (1), when a trademark-
(a)contains any part –
(i)Which is not the subject of a separate application by the proprietor for registration as a trade mark; or
(ii)which is not separately registered by the proprietor as a trade mark; or
(b)contains any matter which is common to the trade or is otherwise of a non-distinctive character, the registration thereof shall not confer any exclusive right in the matter forming only a part of the whole of the trade mark so registered.
Section 44: Assignability and transmissibility or associated trade marks
Associated trade marks shall be assignable and transmissible only as a whole and not separately, but, subject to the provisions of this Act, they shall, for all other purposes, be deemed to have been registered as separate trade marks.
Section 131: Extension of time
(1)If the Registrar is satisfied, on application made to him in the prescribed manner and accompanied by the prescribed fee, that there is sufficient cause for extending the time for doing any act (not being a time expressly provided in this Act), whether the time so specified has expired or not, he may, subject to such conditions as he may think fit to impose, extend the time and inform the parties accordingly.
(2)Nothing in sub-section (1) shall be deemed to require the Registrar to hear the parties before disposing of an application for extension of time, and no appeal shall lie from any order of the Registrar under this section.
Section 145: Agents
Where, by or under this Act, any act, other than the making of an affidavit, is required to be done before the Registrar by any person, the act may, subject to the rules made in this behalf, be done instead of by that person himself, by a person duly authorised in the prescribed manner, who is-
(a)a legal practitioner, or
(b)a person registered in the prescribed manner as a trade marks agent, or
(c)a person in the sole and regular employment of the principal.
Trade Marks Rules, 2017
Rule 19: Agency.
(1)The authorisation of an agent for the purpose of section 145 shall be executed on Form
TM-M

Rule 20: Classification of goods and service –
(1) Classification of goods and service for the purpose of registration of trade mark, the goods and services shall be classified as per current edition of the "International Classification of goods and services (NICE classification)" published by the World Intellectual Property Organisation (WIPO).

Rule 23 (5): In the case of an application for registration in respect of all the goods or services included in a class or of a large variety of goods or services in a class, the Registrar may refuse to accept the application unless he is satisfied that the specification is justified by the use of the mark which the applicant has made or intends to make if and when it is registered;
Rule 26 (3): Representation of Trade Mark:
Where the application contains a statement to the effect that the trade mark is a three dimensional mark, the reproduction of the Trade Mark shall consist of a two dimensional graphic or photographic reproduction as follows, namely:-
(i) The reproduction furnished shall consist of three different view of the trade mark;
(ii) Where, the Registrar considers that the reproduction of the Trade Mark furnished by the applicants does not sufficiently show the particulars of the three dimensional mark, he may call upon the applicant to furnish within two months up to five further different views of the mark and a description by words of the mark;
(iii) Where the Registrar considers the different views or description of the Trade Mark referred to in clause (ii) still do not sufficiently show the particulars of the three dimensional Trade Mark, he may call upon the applicant to furnish a specimen of the trade mark.

Rule 109: Extension of time.
(1)An application for extension of time under section 131 (not being a time expressly provided in the Act or prescribed by Rule 85 or by sub-rule (3) of Rule 86 or a time for the extension of which provision is made in the rules) shall be made on Form TM-M.
(2)Upon an application made under sub-rule (1) the Registrar, if satisfied that the circumstances are such as to justify the extension of the time applied for, may, subject to the provisions of the rules where a maximum time limit is prescribed and subject to such conditions as he may think fit to impose, extend the time and notify the parties accordingly and the extension

	may be granted though the time for doing the act or taking the proceeding for which it is applied for has already expired.

*** end of the report ***