



**INTELLECTUAL PROPERTY OFFICE
OF THE PHILIPPINES**
BUREAU OF TRADEMARKS
Intellectual Property Center, 28 Upper McKinley
Rd., McKinley Hill Town Center, Fort Bonifacio,
Taguig City 1634, Philippines
Website: <http://www.ipophil.gov.ph>

DOCUMENT NO.	2018/44117
DATE OF NOTIFICATION	Pls. refer to the digital signature date

The International Bureau
World Intellectual Property Organization
34, chemin des Colombettes
1211 Geneva 20
Switzerland

**NOTIFICATION OF A PROVISIONAL REFUSAL OF PROTECTION
OF AN INTERNATIONAL REGISTRATION DESIGNATING
THE PHILIPPINES
Rule 17(1)**

International Registration No: 1388677	IR Date (Filing Date): 23 June 2017
Holder: Xiaomi Inc. [CN]	
Mark: MIUI	
Examiner: MARIE KIM B. GAYOSO	
Supervisor: MARITES Q. SALVIEJO	

The mark has been examined, but the issues below prevent the Intellectual Property Office of the Philippines (IPOPHL) from granting the registration of the mark for **all the goods and/or services**.

Registrability Issue(s):

This provisional refusal is for all the goods and/or services.

(1) The mark nearly resembles a registered mark belonging to a different proprietor or a mark with an earlier filing or priority date, and the resemblance is likely to deceive or cause confusion (Sec. 123.1[d][ii]). See attachment(s).

SEC. 123. Registrability

123.1. A mark cannot be registered if it:

(d) Is identical with a registered mark belonging to a different proprietor or a mark with an earlier filing or priority date, in respect of:

- (i) The same goods or services, or*
- (ii) Closely related goods or services, or*
- (iii) If it nearly resembles such a mark as to be likely to deceive or cause confusion*

RULE 102. Registrability. — *A mark cannot be registered if it:*

(d) Is identical with a registered mark belonging to a different proprietor or a mark with an earlier filing or priority date, in respect of:

- (i) The same goods or services, or*
- (ii) Closely related goods or services, or*
- (iii) If it nearly resembles such a mark as to be likely to deceive or cause confusion*

(2) The applicant should submit a copy of the foreign registration or provide information in the response to this provisional refusal on whether or not the mark has been registered in the foreign country. Section 131 of the IP Code requires that the mark be registered in the foreign country of first filing before the mark subject of this application can be registered by the IPOPHL.

SEC. 131. Priority Right

131.1. An application for registration of a mark filed in the Philippines by a person referred to in Section 3, and who previously duly filed an application for registration of the same mark in one of those countries, shall be considered as

filed as of the day the application was first filed in the foreign country.

131.2. No registration of a mark in the Philippines by a person described in this section shall be granted until such mark has been registered in the country of origin of the applicant.

RULE 202. Priority Right; Basis for Claiming Priority Right. — An application for registration of a mark filed in the Philippines by a person referred to in Rule 201, and who previously duly filed an application for registration of the same mark in one of those countries, shall be considered as filed as of the day the application was first filed in the foreign country.

No registration of a mark in the Philippines by a person described in this Rule shall be granted until such mark has been registered in the country of origin of the applicant. However, the mark may be allowed for publication for the purpose of opposition, but such publication shall be withheld until it has been ascertained that the mark has been registered in the country of origin of the applicant. The country of origin of the applicant is the country in which the applicant is a national, domiciled, or has a bona fide and effective industrial or commercial establishment.

Information relating to subsequent procedure:

The applicant must respond in writing to this refusal within two (2) months from the digital signature date found at the end of this notice. The response must be filed by a duly authorized representative with a local address in the Philippines (the list of agents in the Philippines is available on the IPOPHL website). Within the two (2) month-period, the applicant may request an extension of time of another two (2) months to respond to this provisional refusal. The request for extension must be filed by the applicant's local representative in the Philippines. The request for extension can only be made once.

Failure to respond to the provisional refusal, submission of an incomplete response, or failure to request an extension of time to respond within the two-month period will result in the abandonment of the application. In case of abandonment, the applicant has three (3) months from the abandonment date (counted from the lapse of the period to respond) to request the revival of the application. Failure to revive an abandoned application will result in its final abandonment and the confirmation of the total provisional refusal.

If the applicant is able to overturn the objections raised by the Examiner in the provisional refusal, the mark will be published for purposes of opposition. If no opposition to the registration of the mark is filed, the Office will issue a statement of grant of protection.

All responses or communications should be addressed to: THE DIRECTOR OF TRADEMARKS, Intellectual Property Office of the Philippines, 14/F Intellectual Property Center, No. 28 Upper McKinley Road, McKinley Hill Town Center, Fort Bonifacio, Taguig City 1634, Philippines.

Additional information:

The IPOPHL requires the submission of the Declaration of Actual Use (DAU) within three (3) years from the date of international registration or the date of subsequent designation, as the case may be; within one (1) year from the fifth anniversary of the date of grant of protection of the mark; within one (1) year from the renewal date; and within one (1) year from the fifth anniversary of each renewal. The provisions governing the filing of the DAU are contained in the Trademark Regulations of 2017.

Cited mark(s)

Registration No.	4/2012/00006505
Registration Date	5 April 2013
Registrant	BEIJING XIAOMI TECHNOLOGY CO., LTD. - 2ND FLOOR, NO. 2 YONG JIE NORTH ROAD, HAIDIAN DISTRICT, BEIJING, China
Trademark	MIUI 
Disclaimer	NONE
Translation	NONE
Priority Claim	10256796 01 Dec 2011 RC Reg. No. 121100B0/36775 10256799 01 Dec 2011 RC Reg. No. 121100B0/36776 10256800 01 Dec 2011 RC Reg. No. 121100B0/36777
Goods / Services	Class 9: RECORDED COMPUTER OPERATING PROGRAMS; COMPUTER SOFTWARE [RECORDED]; COMPUTER PROGRAMS (DOWNLOADABLE SOFTWARE); COMPUTER STORAGE DEVICES; COMPUTERS; RECORDED COMPUTER PROGRAMMES; COMPUTER KEYBOARDS; COMPUTER PERIPHERAL DEVICES; COMPUTER SOFTWARE[RECORDED]; MONITOR (COMPUTER HARDWARE); MOUSE (DATA PROCESSING EQUIPMENT); DISKS; COMPUTER PRINTERS; CPU; READERS[DATA PROCESSING EQUIPMENT]; SCANNERS[DATA PROCESSING EQUIPMENT]; NOTEBOOK COMPUTERS; POCKET CALCULATORS; PUBLICATIONS IN ELECTRONIC FORM (DOWNLOADABLE); MOUSE PADS; WRIST RESTS GOING WITH COMPUTERS; COMPUTER GAME PROGRAMS; DOWNLOADABLE CELL PHONE RINGTONES; DOWNLOADABLE MUSIC FILES; DOWNLOADABLE IMAGE FILES; USB FLASH MEMORY; PORTABLE COMPUTERS. Class 35: ADVERTISING; ONLINE ADVERTISING ON A COMPUTER NETWORK; BUSINESS MANAGEMENT FOR FRANCHISE OPERATION; SALES PROMOTION FOR OTHERS; MARKETING Class 42: TECHNOLOGY RESEARCH; INDUSTRIAL DESIGN; DUPLICATION OF COMPUTER PROGRAMS; CONVERSION OF DATA OR DOCUMENTS FROM PHYSICAL TO ELECTRONIC MEDIA; CREATING AND MAINTAINING WEB SITES FOR OTHERS; DATA CONVERSION OF COMPUTER PROGRAMS AND DATA[NOT PHYSICAL CONVERSION]; ADVISORY SERVICE OF COMPUTER SOFTWARE; RENTAL OF NETWORK SERVER; PROTECTION SERVICES AGAINST COMPUTER VIRUS; PROVIDING INTERNET SEARCH ENGINE