



World Intellectual Property
Organisation (WIPO)
International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

Your Reference:
International Registration No:
WO0000001387991
Examiner: Judith Davies
Direct Telephone: +44(0)1633811043
Date: 25 June 2018

Intl Reg No: WO0000001387991
Mark: LUX (Figurative)
Holder: GUANGZHOU DARING INTERNATIONAL
FORWARDING CO., LTD.
Class(es): 25

**Notification Of A Provisional Total Refusal Of Protection Based On An
Opposition By The United Kingdom Intellectual Property Office In
Accordance With Article 5 Of The Madrid Protocol**

I am writing to inform you that following receipt of an opposition to the above trade mark, it is necessary to issue this formal provisional refusal letter. This provisional refusal covers all of the goods and services of the International Registration.

Please find attached a copy of the TM7 'Notice of Opposition', which includes details of any marks referred to in the statement of case, which was received by the United Kingdom Trade Mark Registry. Copies of these documents have been sent to the holder informing them of this provisional refusal.

If the holder of the International Registration wishes to file a counterstatement, they must complete the form TM8 'Notice of defence and counterstatement', which is available at ipo.gov.uk/tmforms and **return it to this office** within **two months** of the date of this letter, that is, on or before **28 August 2018**. This period cannot be extended, except in the circumstances described below. The holder should note that failure to file a TM8 will result in the provisional refusal being upheld.

If both parties to this dispute wish to negotiate and want to enter a 'cooling off period' then the time for filing the TM8 can be extended for a further seven months by the filing the form TM9c 'Request for a cooling off period, which is available at ipo.gov.uk/tmforms

The TM8 should be received on or before the date requested above unless a cooling off period is entered into by the parties.

The holder of the International Registration must provide us with an address for correspondence in the United Kingdom, another EEA state or the Channel

Islands on a form TM33 'Appointment or change of agent or contact address', which is available at ipo.gov.uk/tmforms within this two month period.

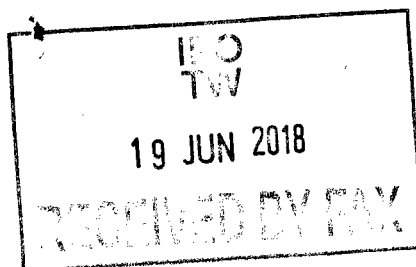
If one is not provided within this time the refusal will be made final.

Judith Davies

Trade Marks Registry



**Intellectual
Property
Office**



J822951/ 0001 D02825 TM07.....
20JUN18 100.00 ACCOUNT 0P000412839

Form TM7
Notice of opposition and statement of grounds

Fee ☒ £100 Opposition based on Section 5(1) and/or 5(2) ONLY

☐ £200 Opposition based on, or including, any other grounds

Note: If you wish to oppose under Section 5(1) and/or 5(2) and one or more other grounds, the fee will be £200



Use this form to notify of an opposition to a trade mark application or international registration and to set out the grounds on which you are basing this opposition.

Do not use this form if you wish to file a Fast Track opposition under Section 5(1) and/or 5(2): use Form TM7F.

<p>1. Trade mark number Number of the trade mark you are opposing. If the opposition concerns an International Registration, help us identify the correct trade mark by adding "IR"</p>	<p>IR1387991</p>	
<p>2. Full name of applicant/holder Whose trade mark you are opposing</p>	<p>Guangzhou Daring International Forwarding Co., Ltd</p>	
<p>3. Full name of opponent Person opposing the trade mark</p>	<p>Biswanath Hosiery Mills Ltd</p>	
<p>Address If the address is not within the United Kingdom, European Economic Area (EEA – which includes the European Union) or the Channel Islands you must have a representative in one of those regions and complete section 4 below</p>	<p>39 Kalikrishna Tagore Street,</p>	
	<p>5th Floor,</p>	
	<p>Calcutta</p>	
	<p>India</p>	<p>Postcode 700007</p>
<p>Email address Complete if you have no representative and would like us to correspond with you by email</p>		
<p>4. Representative name If you have no representative, go to section 5.</p>	<p>Page White & Farrer,</p>	
<p>Address The address provided in this section must be in the UK, European Economic Area (EEA) or the Channel Islands.</p>	<p>Bedford House</p>	
	<p>John Street</p>	
	<p>London</p>	<p>Postcode WC1N 2BF</p>
<p>Email address Complete if you would like us to correspond with you by email</p>	<p>trademarks@pagewhite.com</p>	

NOTE: We will communicate with the representative if this section has been completed.

6. **Related proceedings**
If applicable, select location of any related proceedings and enter the case number allocated to the proceedings.

	IPO Registry		UK Courts		OHIM
Number					

6. **Opposition notification date**
If you have informed the applicant/holder of an intention to oppose the trade mark application, designation – enter the date you notified them.
[**See Note]

13 June 2018

****Note:** An opposition launched without giving the applicant or holder a reasonable opportunity to withdraw the application, international designation or amendment may result in the opponent being ineligible for an award of costs.

7. **Declaration**

I believe that the facts stated in this form and the attached statement of grounds are true.

Signature

Name
(BLOCK CAPITALS)

PAGE WHITE & FARRER

Date

19 June 2018

8. **Your reference**
Complete if you would like us to quote this in communications with you, otherwise leave blank.

411420/JPC/sjc

Contact details

Name, daytime telephone number of the person to contact in case of query.

0207 831 7929

Number of sheets attached to this form

Checklist

Please make sure you have remembered to:

- ☐ Sign and date the form
- ☐ Complete fee sheet (Form FS2)
- ☐ Enclose the fee and fee sheet. Make cheques payable to Intellectual Property Office

Where to send

Intellectual Property Office
Trade Marks Registry
Concept House
Cardiff Road
Newport
South Wales
NP10 8QQ

Please tick on what grounds you are opposing the trade mark and continue to the relevant section(s)

☒

Opposition is based on Sections 5(1) or 5(2): The trade mark is either identical or similar to an earlier trade mark and is to be registered for identical and/or similar goods and services.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier trade mark.

> **COMPLETE SECTION A**

☐

Opposition is based on Section 5(3): The trade mark is either identical or similar to an earlier trade mark which has a reputation. Using the later mark would take unfair advantage of, or be detrimental to, the distinctive character or reputation of the earlier mark.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier trade mark. Ticking this box means that the total fee for this form is £200.

> **COMPLETE SECTION B**

☐

Opposition is based on Section 5(4)(a): Where the use of the applicant's trade mark would be contrary to law, in particular, the law of passing off.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier right. Ticking this box means that the total fee for this form is £200.

> **COMPLETE SECTION C**

☐

Opposition is based on Section 3: The trade mark is excluded from registration because it describes the goods/services, or is not distinctive, or consists of signs that are customary within the trade, or the application was made in bad faith.

Note: Ticking this box means that the total fee for this form is £200.

> **COMPLETE SECTION D**

☐

Opposition is based on other grounds.

Note: Ticking this box means that the total fee for this form is £200.

> **COMPLETE SECTION E**

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input checked="" type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input checked="" type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number
Your trade mark

2196144

Type of mark
Please tick



UK

Community

International

Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.

LUX

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?

☒ Yes

☐ No > GO TO Q4

Q3. Has the trade mark been used?

☒ Yes

☐ No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1 or Q3a (whichever is applicable)?

<input checked="checked" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and e.g. why you consider the respective marks or goods and/or services to be similar.

See attached Statement of Grounds - Paragraph 3

☐

3(6) It is a trade mark which should not be registered for some or all of the goods and services in the application as the application was made in bad faith:

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☐

Other State any other part of section 3 you rely on and give your grounds:

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State which of the applicant's goods or services you oppose under Section 3 grounds

<input type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services <i>(please specify below, use a continuation sheet if necessary)</i>

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

Section 5(1),(2),(3)	If the opponent is claiming protection for an earlier trade mark under Section 6(1)(c) which is a well known trade mark as defined in Section 55(1). See ††Note below.
Section 5(4)(b)	An earlier right by virtue of the law of copyright, design right or registered designs.
Section 60	Registered in the name of an agent or representative.
Rule 25(2)	Opposition to amendment after publication.
Rule 29	Regulations for collective or certification marks.
Rule 30(4)	Amendment of regulations for collective or certification marks.
Rule 32(3)	Alteration of registered mark.
Rule 53(2)	Removal of matter from the register.
Others	

- **Representation of the mark**
- **Details of any reference number and related jurisdiction if relevant**
- **Details of goods and services covered by the earlier mark**
- **Details of goods and services (in the application) which you consider to be similar/identical to those covered by the earlier mark.**

Give details (including details of any right relied upon) to support the application under these grounds
(Use a continuation sheet if necessary)

[illegible]

TRADE MARKS ACT 1994 ("the Act")

**IN THE MATTER of International
Trade Mark Application No. 1387991
LUX in Class 25 of Guangzhou Daring
International Forwarding Co., Ltd ("the
Applicants")**

and

**IN THE MATTER of an Opposition
thereto by Biswanath Hosiery Mills Ltd
("the Opponents")**

STATEMENT OF GROUNDS

1. Biswanath Hosiery Mills Ltd is an Indian company of 39 Kalikrishna Tagore Street, 5th Floor, Calcutta 700007, India, (hereinafter referred to as "the Opponents").
2. The Opponents request the refusal of the mark applied for on the basis of Sections 5(1), 5(2)(a) and 5(2)(b) of the Act. The reasons for this request are set out below.
3. The mark applied for is identical to the Opponent's earlier registered UK trade mark. In the alternative it is a similar mark. On a visual basis, the Applicants' mark is identical, or similar to the Opponent's mark, in that they both share the element LUX. Orally, the Applicants' mark is identical, due to the shared word LUX. Conceptually, they are identical.
4. The Applicants' mark includes goods namely clothing, knitwear (clothing) that are identical to the goods in the Opponent's registered mark. In the alternative, it includes similar goods to men's undergarments, in their being sold through the same trade channels, with the same consumers, for the same, or similar purpose, with the same or similar nature, and with similar manufacturers. In the circumstances, the mark applied for is identical, for identical goods, or an identical, or similar mark for similar and identical goods and given the similarities between the Applicants' mark and the Opponent's mark and the overlap in the goods, there is a risk of confusion arising.
5. The Opponents request the refusal of the application for the opposed goods, and an award of costs.

Dated this 19 day of June 2018



For and on behalf of Biswanath Hosiery Mills Ltd

Page, White & Farrer
Agents for the Opponents.
Bedford House,
John Street,
London, WC1N 2BF

411420/JPC/sjc

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Intellectual Property Office

Trade mark number

UK00002196144

Status

Registered

Overview

Trade mark

The image shows the word "LUX" in a bold, stylized, blocky font. The letters are black with a white outline, giving it a three-dimensional appearance. The 'L' and 'U' are connected, and the 'X' is also connected to the 'U'. The overall style is reminiscent of a classic, possibly vintage, brand logo.

Dates

Filing date

01 May 1999

Date of entry in register

20 July 2001

Renewal date

01 May 2019

Goods and services

Classes and terms

Class 25

Men's undergarments.

Names and addresses

Owner(s) name

Bliswanath Hoslery Mills Ltd
39 Kalikrishna Tagore Street, 5th Floor, Calcutta 700007, India

Country of Incorporation
India

IPO representative name

Maguire Boss
24 East Street, St. Ives, Cambridge, PE27 5PD, United Kingdom

Publications

First advert

Journal
6373

Date of publication
04 April 2001

Intellectual Property Office is an operating name of the Patent Office

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Intellectual Property Office

Trade mark number
WO00000001387991

Status
Application Published

Overview

Trade mark

The image shows the word "LUX" in a bold, black, sans-serif font. The letters are thick and closely spaced, with a slightly distressed or textured appearance.

Dates

Renewal date
11 December 2027

International registration date
11 December 2017

Designation date
11 December 2017

Office of origin
China

Goods and services

Classes and terms

Class 25

Tee-shirts; smocks; clothing; sports jerseys; knitwear [clothing]; shoes; hats; hosiery; scarves; leather belts [clothing].

Names and addresses

Holder's name

GUANGZHOU DARING INTERNATIONAL FORWARDING CO., LTD.
Rm. 719, No. 799, Sanyuanli Avenue, Baiyun Dist. Guangzhou, China

WIPO representative name

Beijing Bekong Intellectual Property Agency Co., Ltd.
Room 12A05, Tower A1 of Chang Yuan Tian Di Building, No. 18, Suzhou Street Haidian District, Beijing, China

Publications

First advert

Journal
2018/021

Date of publication
25 May 2018

The information displayed is our version of the details supplied by WIPO. For the official register of the case please refer to the [WIPO website](#).

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