

**Notification of provisional refusal of protection based on an opposition
(Article 5 of the Madrid Protocol and Rule 17(1) and (2) of the Common Regulations
under the Madrid Agreement and Protocol and Article 78 EUTMDR)**

Alicante, 13/07/2018

International registration No: **1387991**

Date of notification to EUIPO: **08-02-2018**

Trade mark: **LUX**

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

Opposition number: **B3053323**

Protection of the abovementioned mark is provisionally refused for the European Union.

The provisional refusal is based on the fact that an opposition has been filed against the international registration.

I. The grounds for opposition are as follows.

Conflict with an earlier mark because of likelihood of confusion (Article 8(1)(b) EUTMR);

II. Name and address of the opposing party:

**Emil Lux GmbH & Co. KG
Postfach 16 10
D-42909 Wermelskirchen
ALEMANIA**

III. The opposition is based on a mark which was the subject of an application or registration.

- type of mark : **EUTM Registration**
- filing date, registration date and, if applicable, priority date:

Filing date: **29/08/2012**

Registration date: **09/04/2014**

- filing number and, if different, registration number:
Filing number: 011147345
Registration number: 011147345
- reproduction of the mark: (see annex)
- list of goods and services on which the opposition is based: (see annex)

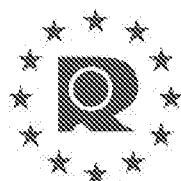
The opposition is based on more than one earlier right: (see annex)

IV. The provisional refusal relates to,

all the goods and services covered by the designation of the European Union.

The Office will notify the opposition separately to the holder of the international registration, including all evidence on which it is based, pursuant to Article 6(1) EUTMDR. The Office will set time limits for the holder. The notification will open an (extendable) cooling-off period of two months and a further period of two months for the opponent to substantiate the opposition. The notification will set a time limit of, in principle, six months for the holder of the international registration to submit observations.

The Office will also set a time limit of two months for the holder to appoint a representative within the meaning of Article 120(1) EUTMR. Protection of the international registration for the European Union will be refused in whole if the holder fails to appoint a representative within the time limit.



Jesús MARTINEZ MARTINEZ

Enclosures (excluding the cover letter): 03 pages.

Last updated: 03/2016



NOTICE OF OPPOSITION

Number of pages (including this one) 3	Opponent/representative reference (not more than 20 characters) 122032EM A160 AT/rh <input type="checkbox"/> Opposition against EUTM application <input checked="" type="checkbox"/> Opposition against IR	Mod.007
Opponent		
Name of legal entity or first name and surname Legal form of the entity Tel, fax, email Address Street and number City and postal code Country Postal address (if different) Nationality	ID number 111011 <input type="checkbox"/> multiple opponents Emil Lux GmbH & Co. KG _____ _____ Emil-Lux-Straße 1 42929 Wermelskirchen _____ Deutschland	
Representative		
Name Tel, fax, email Address Street and number City and postal code Country Postal address (if different)	ID number 10793 <input type="checkbox"/> multiple representatives dompatent von Kreisler Selting Werner - Partnerschaft von Patentanwälten und Rechtsanwälten mbB +49 221 91652 0 +49 221 134297 mail@dompatent.de Deichmannhaus am Dom Bahnhofsvorplatz 1 50667 Cologne Germany	
Type of representative <input type="checkbox"/> legal practitioner <input type="checkbox"/> professional representative <input checked="" type="checkbox"/> association of representatives <input type="checkbox"/> employee		
Challenged application		
EUTM application/IR No WO1387991 Date of publication (DD/MM/YYYY) 01 / 03 / 2018		
Name of EUTM applicant or IR holder Guangzhou Daring International...		
Extent of the opposition <input checked="" type="checkbox"/> against all the goods and services in the application Language of the opposition <input type="checkbox"/> ES <input type="checkbox"/> DE <input checked="" type="checkbox"/> EN <input type="checkbox"/> FR <input type="checkbox"/> IT <input type="checkbox"/> against part of the goods and services in the application, namely:		
<input type="checkbox"/> continuation sheet(s)		
Payment of fee		
Total € 320		Signature
Current account with EUIPO <input checked="" type="checkbox"/> Account No 000024 <input type="checkbox"/> Do not use my current account with EUIPO		Name (Dr. Alexander Theis, LL.M.) Signature
Transfer to EUIPO account <input type="checkbox"/> Banco Bilbao Vizcaya Argentaria <input type="checkbox"/> La Caixa Date of transfer (DD/MM/YYYY) / /		<div style="border: 1px solid black; padding: 5px; text-align: center;"> dompatent von Kreisler Selting Werner Partnerschaft von Patentanwälten und Rechtsanwälten mbB Deichmannhaus am Dom Bahnhofsvorplatz 1 • 50667 Köln </div>

#TM007EN

page number

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NOTICE OF OPPOSITION

BASIS OF OPPOSITION: TRADE MARK REGISTRATION/APPLICATION

Identification of the earlier mark

☒ Trade mark registration☐ Trade mark application☒ EU trade mark☐ National trade mark☐ International registration with effect in one or more Member State(s)

Member State(s)

EM	BG	BX	CZ	DK	DE	EE	IE	EL	ES	FR	HR	IT	CY	LV	LT	HU	MT	AT	PL	PT	RO	SI	SK	FI	SE	UK
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Filing date (DD/MM/YYYY)

29 / 08 / 2012

Filing number

011147361

Registration date (DD/MM/YYYY)

27 / 02 / 2016

Registration number

011147361

Representation of the mark (in colour if applicable)

Type of mark

☒ Word mark

LUX

☐ Figurative mark☐ Other (specify)

Goods and services on which the opposition is based:

☒ all the goods and services covered by the registration/application☐ part of the goods and services, namely:

☐ continuation sheet(s)

Entitlement of opponent

☒ Owner

Copy of registration/application

☐ attached☐ to follow☐ Authorised licensee

Translation

☐ attached

Grounds for opposition

☐ Article 8(1)(a) EUTMR

- the EUTM application/IR is identical to the earlier mark and covers identical goods and/or services

☒ Article 8(1)(b) EUTMR

- there is a likelihood of confusion on the part of the public

☐ Article 8(5) EUTMR

- use without due cause of the contested mark would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark

Explanation of grounds and other remarks:

☐ continuation sheet(s)

Territory where the earlier mark has a reputation:

EM	BG	BX	CZ	DK	DE	EE	IE	EL	ES	FR	HR	IT	CY	LV	LT	HU	MT	AT	PL	PT	RO	SI	SK	FI	SE	UK
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Goods and services for which the trade mark has a reputation

☐ all the goods and services covered by the registration/application☐ part of the goods and services covered by the registration/application, namely:

☐ continuation sheet(s)

Evidence of reputation

☐ attached☐ to follow

translation

☐ attached

page number

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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Filing date (DD/MM/YYYY)

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011147345

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☐ attached

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Goods and services for which the trade mark has a reputation

☐ all the goods and services covered by the registration/application☐ part of the goods and services covered by the registration/application, namely:

☐ continuation sheet(s)

Evidence of reputation

☐ attached☐ to follow

translation

☐ attached