



**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>

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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: **1408132**

IR Date/Subsequent Designation Date: 26 December 2017

Holder: Xiaomi Singapore Pte. Ltd. [SG]

Mark: foto

Examiner: BENITA AILEEN V. VILLAPANDO

Supervisor: MARITES Q. SALVIEJO

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

Registrability Issue:

There are no grounds for refusal of the mark on substantive issues. However, 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 IPOP HL.

The applicant has six (6) months from the digital signature date found at the end of this notice to submit a copy of the registration of the foreign application and its English translation, if the document is not in English, or inform the IPOP HL whether or not the mark has been registered in the foreign IP Office. If the mark is not registered in the country of first filing within the six-month period, the applicant may, before the lapse of such period, request an extension of time of one (1) year from expiry of the initial six months period to submit a copy of the foreign registration and its English translation, if the document is not in English, or inform the IPOP HL of the fact of registration of the mark. The corresponding fee must be paid directly to the IPOP HL.

If no request for extension is made or no information on the registration of the mark in the foreign office of first filing is submitted within the six-month period, the IPOP HL will publish the mark for opposition, but the claim of priority will be deemed waived.

IP CODE 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.

TM 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.

RULE 614. Allowance of applications with a claim of priority right. — If the only issue remaining in an application with a priority right claim based on a foreign application is the registration of such foreign application, the Examiner shall allow the application.

The Examiner shall verify whether or not the mark has been registered from the online trademarks database of the foreign intellectual property office where the application was filed. If the foreign application has been registered, the allowed mark shall be published for opposition upon payment of the required fees.

If the foreign application has not been registered at the time of allowance or if the foreign intellectual property office does not have an online trademarks database, the Examiner shall, in the Notice of Allowance and Deferment, require the applicant to submit a photocopy of the foreign registration within six (6) months from mailing date of such notice. Upon request of the applicant and subject to the payment of the required fee, the period to submit a copy of the foreign registration may be extended for a period of one (1) year, counted from the expiry of the initial period of six (6) months. If the applicant does not request an extension or is unable to submit a copy of the foreign registration within the extension period, the claim to the right of priority shall be deemed waived. The application will thereafter be published for opposition upon payment of the required fees.

Information relating to subsequent procedure:

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). After the issue raised by the Examiner in the provisional refusal is settled, 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. Responses or communications must be filed by the applicant's local representative in the 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.