

In reply please quote our reference

Your reference : N.A.
Our reference : 2019/51706412802Y
Date : 08 February 2019
Writer's direct number : +65 6330 8628

WORLD INTELLECTUAL PROPERTY ORGANIZATION
INTERNATIONAL REGISTRATIONS DEPARTMENT
34, CHEMIN DES COLOMBETTES, 1211 GENEVA 20
SWITZERLAND

Dear Sir/Madam

NOTIFICATION OF PROVISIONAL REFUSAL OF PROTECTION TO THE INTERNATIONAL BUREAU OF THE WORLD INTELLECTUAL PROPERTY ORGANIZATION ACCORDING TO ARTICLE 5 OF THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS

1. Office making the notification:

Intellectual Property Office of Singapore (IPOS)

2. International Registration Number:

1433787

3. Trade Mark Number(s) issued by the IPOS for this International Registration:

Trade Mark Number : 40201823724Y

Class Number(s) : 09, 35, 38 AND 42

4. Name of holder of the International Registration:

XIAOMI INC.

5. Ground(s) of the Provisional Refusal:

Provisions of Singapore Law: The relevant provisions of Singapore law are attached.

5.1 Section 8(2)(b)

The mark is objectionable under section 8(2)(b) of the Trade Marks Act (Cap. 332, 2005 Rev. Ed.) which states that a trade mark shall not be registered if because it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected, there exists a likelihood of confusion on the part of the public.

The mark is in conflict with the following trade mark(s) in respect of the indicated class(es):

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S.No	Cited Trade Mark No	International Reg No	Mark Status	Trade Mark	Subject Class No Objected To
1	T1405403Z	(not applicable)	Registered	MI PAD	09, 38
2	T1405408J	(not applicable)	Registered	MI WIFI	09
3	T1405410B	(not applicable)	Registered	MI TV	09, 38

We are of the view that the subject mark is similar to the cited marks.

The subject marks and the cited marks are plain word marks comprising of two words, the first word being "MI" and a different second word which is descriptive of the goods and services in Classes 9 and 38 ("Cloud", "Pad", "WIFI" and "TV").

All the marks have in common the distinctive first word "MI". While we note that the second word in all of the marks are different, it is descriptive in nature and does not serve to differentiate the subject mark from the respective cited marks. Bearing in mind the imperfect recollection of the average consumers, we believe that all the marks would be remembered and recalled in the same way as "MI".

The goods and services sought to be registered in Classes 9 and 38 overlap with those covered by the cited mark registrations.

Taking into account the similarities in the marks and the goods and services, we are of the view that there is a likelihood that the relevant public would be confused into thinking that the applicant's goods and services originate from the proprietor of the cited marks.

5.2 **How to overcome our objection under section 8(2)(b)**

You may consider the following options:

- (a) Remove the conflicting goods and/or services; or
- (b) Obtain a letter of consent from the cited proprietor; or
- (c) File evidence to show honest concurrent use in Singapore.

In other words, you may file evidence to show that before the date of this application, your mark has been put to use for the goods and/or services applied for at the same time as the cited mark(s) according to honest practices in commercial and industrial standards. This evidence may show that the public is used to distinguishing between your mark and the cited

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mark(s) and there is no likelihood of confusion in the public.

The evidence should show concurrent use of your mark and the cited mark(s) for a period of at least 5 years before the date of this application. The evidence should be presented by way of a statutory declaration.

For guidance as to how the letter of consent or evidence of honest concurrent use should be presented, please refer to the Registry's web site at <http://goo.gl/a1CjVx>.

6. Goods and/or services affected by the refusal:

This refusal applies to all the goods and services in Classes 09 and 38 of the international registration.

7. Request for review:

The holder of the international registration may file a request for a review of this refusal with IPOS.

The request for review must comply with the following:

- (a) quote the International Registration number, relevant trade mark number(s), corresponding class number(s) and Singapore reference number(s).
- (b) furnish an address for service in Singapore. The holder may appoint an agent by filing Form CM1.

Please note that any form(s) filed with the International Bureau of the World Intellectual Property Organization in response to this refusal, will not be treated as a request for a review of this refusal unless the above has been complied with.

8. Extension of time:

The holder may seek an extension of time to request for a review of this refusal by filing Form CM5.

9. Deadline to observe:

If the holder does not file a request for review or apply for an extension of time to do so by **8 June 2019**, the application for the refused goods and/or services indicated in paragraph 6 of this refusal will be treated as withdrawn (reinstatable). Please refer to paragraph 10 on reinstatement of an application that is treated as withdrawn (reinstatable).

10. Reinstatement of an application that is treated as withdrawn (reinstatable):

If the application for the refused goods and/or services indicated in paragraph 6 of this refusal becomes treated as withdrawn (reinstatable), the holder may request to reinstate the application by filing Form CM13 together with the request for review within six months from the deadline in paragraph 9.

Please note that reinstatement is not automatic. Reinstatement will be allowed only after we have conducted a new conflicting mark search and are satisfied that the mark to be reinstated

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does not conflict with any trade mark applications filed with IPOS prior to the filing of the required documents.

If the holder also does not request to reinstate the application in time, the application for goods and/or services that are not refused will proceed to publication.

11. Forms and fees:

The forms referred to in this provisional refusal and the relevant fees may be found at <https://www.ip2.sg/>.

12. Further refusal of protection:

Please note that a further refusal of protection may result from an opposition, which may be filed after the expiry of 18 months from the date on which the Intellectual Property Office of Singapore was notified of the international registration. This applies to all goods and/or services claimed in the international registration.

This refusal is issued by:

Ms Koh Chii Boon
Assistant Registrar
for Registrar of Trade Marks
Singapore

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PROVISIONS OF SINGAPORE LAW

TRADE MARKS ACT (CHAPTER 332)

Section 2(1) Interpretation

"earlier trade mark" means -

- (a) a registered trade mark or international trade mark (Singapore), the application for registration of which was made earlier than the trade mark in question, taking account (where appropriate) of the priorities claimed in respect of the trade marks; or
- (b) a trade mark which, at the date of application for registration of the trade mark in question or (where appropriate) of the priority claimed in respect of the application, was a well known trade mark,

and includes a trade mark in respect of which an application for registration has been made and which, if registered, would be an earlier trade mark by virtue of paragraph (a) subject to its being so registered.

Section 8 Relative grounds for refusal of registration

(1) A trade mark shall not be registered if it is identical with an earlier trade mark and the goods or services for which the trade mark is sought to be registered are identical with the goods or services for which the earlier trade mark is registered.

(2) A trade mark shall not be registered if because -

- (a) it is identical with an earlier trade mark and is to be registered for goods or services similar to those for which the earlier trade mark is protected; or
- (b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected,

there exists a likelihood of confusion on the part of the public.

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CITED MARK DETAILS

Trade Mark No. T1405403Z	
National	
<div style="text-align: right; margin-bottom: 5px;"> Application Type Trade Mark Trade Mark Type Conventional Mark </div> <div style="text-align: right; margin-bottom: 5px;"> Description of Particular Feature(s) of Mark Converted Application No Application Date 9 April 2014 Mark Status (unless otherwise indicated below) Registered Mark Status Date 9 April 2014 Status Update Date 10 January 2018 Date of Completion of Registration Procedure 10 January 2018 Expiry Date (unless otherwise indicated below) 9 April 2024 Publication Date 16 July 2014 </div> <div> Transformation Application under Madrid Protocol Replacement Application under Madrid Protocol </div>	
Basic Mark on which IA is based	
International Application No. M1400089A International Registration No. 1223839	
Specification of Goods or Services	
<div style="margin-bottom: 5px;"> 1) Class Number Class 09 </div> <div> Goods/Services Portable and handheld electronic devices for transmitting, storing, manipulating, recording, and reviewing text, images, audio, video and data, including via global computer networks, wireless networks, and electronic communications networks; tablet computers, electronic book readers, periodical readers, digital audio and video players, digital camera, electronic personal organizers, personal digital assistants, electronic calendars, mapping and global positioning system (GPS) devices; computer peripheral devices; computer and portable and handheld electronic device accessories, namely, monitors, displays, keyboards, mouse, wires, cables, modems, disk drives, adapters, adapter cards, cable connectors, plug-in connectors, electrical power connectors, docking stations, charging stations, drivers, battery chargers, battery packs, memory cards and memory card readers, headphones and earphones, speakers, microphones, and headsets, cases, covers, and stands for portable and handheld electronic devices and computers; computer software for the development of content and service delivery across global computer networks, wireless networks, and electronic communications networks; downloadable audio works, visual works, audiovisual works and electronic publications featuring </div>	

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<p>books, magazines, newspapers, periodicals, newsletters, journals and manuals on a variety of topics; computer software for transmitting, sharing, receiving, downloading, displaying, transferring, formatting, and converting content, text, visual works, audio works, audiovisual works, literary works, data, files, documents and electronic works via portable electronic devices and computers; computer game programs; downloadable music files; downloadable image files; video telephones; navigational instruments; screens [photoengraving].</p> <p>Class Status Registered Class Expiry Date 9 April 2024</p>
<p>2) Class Number Class 38 Goods/Services Telecommunication access services; communication by computer; transmission of data and of information by electronic means, broadcasting or transmission of radio and television programs; provision of telecommunications connections to computer databases and the Internet; electronic transmission of streamed and downloadable audio and video files via computer and other communications networks; web casting services; delivery of messages by electronic transmission; streaming of video content, streaming and subscription audio broadcasting of spoken word, music, concerts, and radio programs, broadcasting prerecorded videos featuring music and entertainment, television programs, motion pictures, news, sports, games, cultural events, and entertainment-related programs of all kinds, via computer and other communications networks; providing on-line bulletin boards for the transmission of messages among computer users concerning entertainment in the nature of music, concerts, videos, radio, television, film, news, sports, games and cultural events; communication services, namely, providing users access to communication networks for the transfer of music, video and audio recordings; teleconferencing services; providing internet chatrooms; voice mail services; transmission of digital files.</p> <p>Class Status Registered Class Expiry Date 9 April 2024</p>
<p>Current Applicant or Proprietor Details</p>
<p>1) Name Xiaomi Singapore Pte. Ltd. UEN/Company Code E00425166A Country/Territory of Incorporation Singapore State of Incorporation Address 12 MARINA VIEW #23-01 ASIA SQUARE TOWER 2 Singapore 018961</p>
<p>1) Name Xiaomi Singapore Pte. Ltd. UEN/Company Code E00425166A Country/Territory of Incorporation Singapore</p>

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State of Incorporation Address 12 MARINA VIEW #23-01 ASIA SQUARE TOWER 2 Singapore 018961
1) Name Xiaomi Singapore Pte. Ltd. UEN/Company Code E00425166A Country/Territory of Incorporation Singapore State of Incorporation Address 12 MARINA VIEW #23-01 ASIA SQUARE TOWER 2 Singapore 018961
Agent/Correspondence Details
1) Agent Name ONE LEGAL LLC UEN/Company Code 200503528K Representative Name Address For Service 6 SHENTON WAY #21-08 OUE DOWNTOWN 2 Singapore 068809 Action Representing For all matters relating to the application, registration/grant, except those matters expressly excluded
2) Agent Name ONE LEGAL LLC UEN/Company Code 200503528K Representative Name Address For Service 6 SHENTON WAY #21-08 OUE DOWNTOWN 2 Singapore 068809 Action Representing Form MM2(E) (for Trade Marks)
1) Agent Name ONE LEGAL LLC UEN/Company Code 200503528K Representative Name Address For Service 6 SHENTON WAY #21-08 OUE DOWNTOWN 2 Singapore 068809 Action Representing For all matters relating to the application, registration/grant, except those matters expressly excluded
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UEN/Company Code	200503528K
Representative Name	
Address For Service	6 SHENTON WAY #21-08 OUE DOWNTOWN 2 Singapore 068809
Action Representing	For all matters relating to the application, registration/grant, except those matters expressly excluded

Trade Mark No. T1405408J	MI WIFI
National	
Application Type Trade Mark Trade Mark Type Conventional Mark Description of Particular Feature(s) of Mark Converted Application No Application Date 9 April 2014 Mark Status (unless otherwise indicated below) Registered Mark Status Date 9 April 2014 Status Update Date 5 August 2014 Date of Completion of Registration Procedure 5 August 2014 Expiry Date (unless otherwise indicated below) 9 April 2024 Publication Date 28 May 2014 Transformation Application under Madrid Protocol Replacement Application under Madrid Protocol	
Basic Mark on which IA is based	
International Application No. M1400091C International Registration No. 1217482	
Specification of Goods or Services	
1) Class Number Class 09 Goods/Services Computer hardware, computer software and computer peripherals for communication between multiple computers and between computers and local and global computer networks; network routers; wireless routers; computer network hubs, switches, adapters and routers; connection cables, servers and routers; modems and modem cables; computer hardware and software for use in connecting computers with televisions, projectors, monitors or other display devices over electronic, optical, or wireless communications networks; computer storage device for back-up, storage and access of electronic data through local and remote computer networks; transponders; transmitters of electronic signals. Class Status Registered Class Expiry Date 9 April 2024	

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Current Applicant or Proprietor Details	
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UEN/Company Code	200503528K
Representative Name	
Address For Service	6 SHENTON WAY #21-08 OUE DOWNTOWN 2 Singapore 068809
Action Representing	For all matters relating to the application, registration/grant, except those matters expressly excluded

Trade Mark No. T1405410B	MI TV
National	
Application Type Trade Mark Trade Mark Type Conventional Mark Description of Particular Feature(s) of Mark Converted Application No Application Date 9 April 2014 Mark Status (unless otherwise indicated below) Registered Mark Status Date 9 April 2014 Status Update Date 5 August 2014 Date of Completion of Registration Procedure 5 August 2014 Expiry Date (unless otherwise indicated below) 9 April 2024 Publication Date 28 May 2014 Transformation Application under Madrid Protocol Replacement Application under Madrid Protocol	
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Specification of Goods or Services	

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1) Class Number Class 09 Goods/Services Television receivers; audio electronic components, namely, surround sound systems; light emitting diode displays; computer monitors; 3D eye glasses; headphones; headsets; speakers; audio and video receivers; microphones; remote controls; DVD players; computer hardware and software for receiving, converting, transmitting, streaming, and reviewing audio, video, television, movies, photographs and other digital images, and other multimedia content; computer hardware and software for controlling the operation of audio and video devices and for viewing, searching and/or playing audio, video, television, movies, photographs and other digital images, and other multimedia content; computer hardware and software for use in accessing and viewing interactive television program guides via global computer networks, wireless networks and electronic communication networks; computer software for the remote programming of audio and video devices via global computer networks, wireless networks and electronic communication networks; computer hardware and peripherals; computer networking hardware and peripherals; digital set-top boxes; slide projectors; computer game programs; downloadable music files; downloadable image files; screens [photoengraving]; slide projectors; compact disc players; DVD players; acoustic couplers. Class Status Registered Class Expiry Date 9 April 2024
2) Class Number Class 38 Goods/Services Television and video broadcasting; television and video transmission services; radio transmission services; broadcasting programs via a global computer network; streaming of audio and video content on the internet; providing access to telecommunication networks; electronic transmission of data via global computer networks, wireless networks and electronic communication networks; television broadcasting and transmission services featuring interactive television viewing functions that permit users to view and share audio files, video files, photographs, images and other multimedia content between and among computers, set-top-boxes, and other audiovisual devices; providing telecommunications connections to a global computer network; teleconferencing services; providing user access to global computer networks; providing access to databases; transmission of digital files. Class Status Registered Class Expiry Date 9 April 2024
Current Applicant or Proprietor Details
1) Name Xiaomi Singapore Pte. Ltd. UEN/Company Code E00425166A Country/Territory of Incorporation Singapore State of Incorporation

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