

# MADRID AGREEMENT AND PROTOCOL

## PROVISIONAL REFUSAL OF PROTECTION

### Rule 17(1)

I.	Office sending the statement: <b>Hungarian Intellectual Property Office</b> 1438 Budapest, Pf.415 Fax. :(361) 474 - 5534
II.	Number of the international registration: 143 3787 Date of extension of the mark to Hungary: 2018.07.12
III.	Name of the holder (or other information enabling the identity of the international registration to be confirmed): Xiaomi Inc.
IV.	<input type="checkbox"/> Provisional refusal based on an ex officio examination <b><input checked="" type="checkbox"/> Provisional refusal based on an opposition</b> <input type="checkbox"/> Provisional refusal based on an observation
V.	<b><input checked="" type="checkbox"/> Provisional refusal for all the goods and/or services</b> <input type="checkbox"/> Provisional refusal for some of the goods and/or services: (followed by an indication of the goods and/or services which are affected or are not affected)
VI.	Grounds for refusal (where applicable, see item VIII): <b>4/1/b, 4/1/c</b>
Information relating to an earlier mark :  (i) Filing date and number, and, if any, priority date: (ii) Registration date and number (if available): (iii) Name and address of the owner: (iv) List of all or relevant goods and/or services:	



2013.02.13 **011571866**

2017.10.13

Apple Inc., One Apple Park Way, Cupertino, California 95014 (US)

VII. 9,35,39,42

2011.05.31 **014067755**

2015.05.15

Apple Inc., One Apple Park Way, Cupertino, California 95014 (US)

9,16,25,35,37-38,41

2013.02.13 **013002928**

2015.06.29

Apple Inc., One Apple Park Way, Cupertino, California 95014 (US)

9,16,25,28,35,37,42

Corresponding essential provisions of the applicable law:

A sign shall not be granted trademark protection if because of its identity with, or similarity to, the earlier trademark and the identity or similarity of the goods or services there exists a likelihood of confusion on the part of the consumers.

VIII.

A sign shall not be granted trademark protection with respect to not similar goods or services if the sign with the later date of priority is identical with, or similar to, an earlier trademark having a reputation in the country where the use of the later sign would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trademark.

Information relating to subsequent procedure:

(i) Time limit for replying the present provisional refusal: **2019.10.15**

(ii) Authority to which such reply shall be made:

Hungarian Intellectual Property Office

(iii) Indications concerning the appointment of a representative:

If the applicant is foreign person whose domicile or residence is outside the European Economic Area, he is obliged to appoint an agent entitled to act before the Hungarian Intellectual Property Office

**Note: the official language of trademark procedures before the HIPO is Hungarian.**

(iv) Procedure in the absence of a reply:

If the applicant does not reply to the invitation within the fixed time limit, the Hungarian Intellectual Property Office shall notify the International Bureau, except when paragraph (5a) is applicable, that the protection of the trade mark extending to Hungary is refused (final refusal), or that protection is only partially recognised by the Hungarian Intellectual Property Office. The Hungarian Intellectual Property Office shall send such notification to the International Bureau after the decision on final refusal or on partial recognition of the

IX.



protection has become final and binding. If trade mark protection is recognised in part, the date of registration shall be the date of the decision.

If the applicant fails to reply, within the fixed time limit, to an invitation of the Hungarian Intellectual Property Office issued solely upon an opposition, the Hungarian Intellectual Property Office shall decide on the registration of the trade mark on the basis of the available information, and shall notify the International Bureau accordingly, sending either a notification on the final refusal or a notification made in accordance with paragraph (5e).

WARNING: In case of an opposition, the expenses arisen in connection with the opposition can be imposed on the losing party by the Hungarian Intellectual Property Office. The amount shall be found in the HIPO's decision.

Examiner: Szabó Katalin

X. Number of decision: A1433787/8

Date: 2019.07.03

Signature or official seal of the Office sending the statement:

XI.

  
dr. Gabriella Kiss

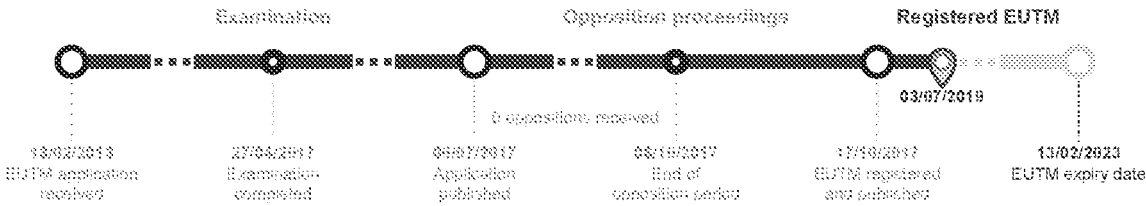
Head of the International Trademark Section



EUTM file information

ICLOUD  
011571866

Timeline



Trade mark information

Name	ICLOUD	Filing date	13/02/2013
Filing number	011571866	Registration date	13/10/2017
Basis	EUTM	Expiry date	13/02/2023
Date of receipt	13/02/2013	Designation date	
Type	Word	Filing language	English
Nature	Individual	Second language	Italian
Nice classes	9, 35, 39, 42 ( Nice Classification )	Application reference	306187-6917/PFA/RRW
Vienna Classification		Trade mark status	Registered
		Acquired distinctiveness	Yes

Goods and services

English (en)

- 9** Computer software for authoring, downloading, transmitting, receiving, editing, extracting, encoding, decoding, displaying, storing and organizing text, graphics, images, and electronic publications; computer software, namely, operating system programs, data synchronization programs, and application development tool programs for personal and handheld computers; pre-recorded computer programs for personal information management, database management software, character recognition software, telephony management software, electronic mail and messaging software, paging software, mobile telephone software; database synchronization software, computer programs for accessing, browsing and searching online databases, computer software for the redirection of messages, Internet e-mail, and/or other data to one or more electronic handheld devices from a data store on or associated with a personal computer or a server; computer software for the synchronization of data between a remote station or device and a fixed or remote station or device.
- 35** Computerized database and file management; data processing services; computerized data storage and retrieval services; computerized data storage and retrieval services for text, data, image, audio, video, and multimedia content; creating indexes of information, sites and other resources available on global computer networks and other electronic and communications networks for others; searching, browsing and retrieving information, sites, and other resources available on global computer networks and other electronic and communications networks for others; organizing content of information provided over a global computer network and other electronic and communications networks according to user preferences; providing an online searchable database of text, data, image, audio, video, and multimedia content in the fields of computer hardware, computer software, consumer electronics, telecommunications and multimedia goods, mobile phones, handheld digital electronic devices, and other consumer electronics and accessories, peripherals, and carrying cases for such products.

**39** Physical storage of electronically stored data, text, images, audio and video; physical storage services for archiving electronic data.

**42** Application service provider (ASP) services featuring software for authoring, downloading, transmitting, receiving, editing, extracting, encoding, decoding, displaying, storing and organizing text, graphics, images, and electronic publications; providing search engines for obtaining data on a global computer network.

## Description

No data

## Owners

### Apple Inc.

ID	<b>839</b>	Country	<b>US - United States</b>	Correspondence address	
Organisation	<b>Apple Inc.</b>			Apple Inc. One Apple Park Way Cupertino, California 95014 ESTADOS UNIDOS (DE AMÉRICA)	Hidden. You can set your contact details to be publicly available via the User Area.
Legal status	<b>Legal entity</b>	State/county	<b>California</b>		
State, district or L...	<b>California</b>	Town	<b>Cupertino</b>		
		Post code	<b>95014</b>		Hidden. You can set your contact details to be publicly available via the User Area.
		Address	<b>One Apple Park Way</b>		
					Hidden. You can set your contact details to be publicly available via the User Area.

## Representatives

### LOCKE LORD LLP

ID	<b>41701</b>	Country	<b>GB - United Kingdom</b>	Correspondence address	
Organisation	<b>n/a</b>			Locke Lord (UK) LLP 201 Bishopsgate London EC2M 3AB REINO UNIDO	Hidden. You can set your contact details to be publicly available via the User Area.
Legal status	<b>Legal person</b>	State/county	<b>n/a</b>		
Type	<b>Association</b>	Town	<b>London</b>		
		Post code	<b>EC2M 3AB</b>		Hidden. You can set your contact details to be publicly available via the User Area.
		Address	<b>201 Bishopsgate</b>		
					Hidden. You can set your contact details to be publicly available via the User Area.

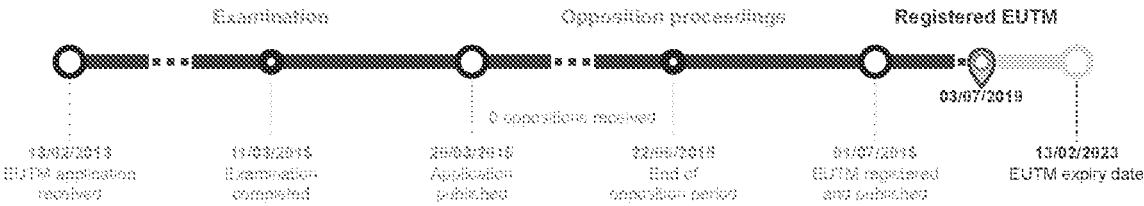
## Correspondence

	From	Procedure	Filing number	Subject	Date	Actions
		Recordal	014477999	T72RW - Change in the name and/or address of the applicant/proprietor - notification of entry in the Register	27/06/2018	
		Recordal	014477999	T72RW - Change in the name and/or address of the applicant/proprietor - notification of entry in the Register	27/06/2018	
		EUTM	011571866	L304 – Cover letter for registration certificate	17/10/2017	
		EUTM	011571866	Certificate	17/10/2017	
		EUTM	011571866	LSU01 - Information to proprietors of earlier trade mark registrations or applications	19/04/2017	

EUTM file information

ICLOUD  
013002928

Timeline



Trade mark information

Name	ICLOUD	Filing date	13/02/2013
Filing number	013002928	Registration date	29/06/2015
Basis	EUTM	Expiry date	13/02/2023
Date of receipt	13/02/2013	Designation date	
Type	Word	Filing language	English
Nature	Individual	Second language	Italian
Nice classes	9, 16, 25, 28, 35, 37, 42 ( Nice Classification )	Application reference	306187-7294/PFA
Vienna Classification		Trade mark status	Registered
		Acquired distinctiveness	No

Goods and services

English (en)

- 9** Mouse pads; batteries; rechargeable batteries; chargers; chargers for electric batteries; headphones; stereo headphones; in-ear headphones; stereo speakers; audio speakers; audio speakers for home; monitor speakers; speakers for computers; personal stereo speaker apparatus; loudspeakers, multiple speaker units, microphones; covers, bags and cases adapted or shaped to contain all of the aforesaid goods, made of leather, imitations of leather, cloth, or textile materials.
- 16** Paper, cardboard and goods made from these materials, not included in other classes; book binding material; photographs; stationery; stickers; artists' materials; paint brushes; typewriters and office requisites (except furniture); plastic materials for packaging (not included in other classes); advertising materials; printers' type; printing blocks; greeting cards; advertising and promotional material; catalogues relating to musical apparatus and instruments; music books; music instruction manuals; music magazines \ \ \ .
- 25** Clothing, footwear, headgear.
- 28** Toys; games and playthings; playing cards; musical toys, games and playthings; toy audio apparatus; toy musical boxes; toy musical instruments; toy record players for playing tunes and cassettes; musical games; battery operated toys; automatic and coin-operated amusement machines; musical toys and games; stand alone video game machines incorporating a means of display; toy handheld electronic devices; toy computers (not working); toy mobile telephones (not working); parts and fittings for all the aforesaid goods.
- 35** Advertising agency services; advertising, marketing, and promotion services; advertising and marketing consultation; sales promotion services; promoting the goods and services of others; conducting market research; analysis of advertising response and market research; preparation, production, and dissemination of advertisements and advertising material for

others; media planning services; administration of consumer loyalty programs; arranging and conducting incentive rewards programs to promote the sale of goods and services; retail store and online retail store services in the fields of computer hardware, computer software, consumer electronics, telecommunications and multimedia goods, mobile phones, handheld digital electronic devices, and other consumer electronics and accessories, peripherals, and carrying cases for such products; retail store services provided via the Internet and other computer, electronic and communications networks in the field of computer hardware, computer software, consumer electronics, telecommunications and multimedia goods and accessories, mobile phones, handheld digital electronic devices, and other consumer electronics and accessories, peripherals, and carrying cases for such products; retail store services in the field of books, magazines, periodicals, newsletters, journals and other publications on a wide range of topics of general interest, provided via the Internet and other computer, electronic and communications networks; retail store services in the field of entertainment featuring movies, television programs, sporting events, musical works, and audio and audiovisual works, via the Internet and other computer, electronic and communications networks; retail store services featuring computer, electronic and entertainment products, telecommunications apparatus, mobile phones, handheld mobile digital electronic devices, and other consumer electronics, computer software, and accessories, peripherals, and carrying cases for such products, via the Internet and other computer, electronic and communications networks; product demonstrations provided in-store and via global communications networks and other electronic and communications networks.

**37** Repair and installation services; maintenance, installation and repair of computer hardware, computer peripherals and consumer electronic devices; consulting services in the field of maintenance of computer hardware, computer peripherals, and consumer electronic devices.

**42** Design and creation of advertisements and advertising material for others.

## Description

No data

## Owners

### Apple Inc.

ID	<b>839</b>	Country	<b>US - United States</b>	Correspondence address	
Organisation	<b>Apple Inc.</b>	State/county	<b>California</b>	Apple Inc. One Apple Park Way Cupertino, California 95014 ESTADOS UNIDOS (DE AMÉRICA)	Hidden. You can set your contact details to be publicly available via the User Area.
Legal status	<b>Legal entity</b>	Town	<b>Cupertino</b>		
State, district or t...	<b>California</b>	Post code	<b>95014</b>		Hidden. You can set your contact details to be publicly available via the User Area.
		Address	<b>One Apple Park Way</b>		Hidden. You can set your contact details to be publicly available via the User Area.

## Representatives

### LOCKE LORD LLP

ID	<b>41701</b>	Country	<b>GB - United Kingdom</b>	Correspondence address	
Organisation	<b>n/a</b>	State/county	<b>n/a</b>	Locke Lord (UK) LLP 201 Bishopsgate London EC2M 3AB REINO UNIDO	Hidden. You can set your contact details to be publicly available via the User Area.
Legal status	<b>Legal person</b>	Town	<b>London</b>		
Type	<b>Association</b>	Post code	<b>EC2M 3AB</b>		Hidden. You can set your contact details to be publicly available via the User Area.
		Address	<b>201 Bishopsgate</b>		Hidden. You can set your contact details to be publicly available via the User Area.

## Correspondence

	From	Procedure	Filing number	Subject	Date	Actions
		Recordal	014477999	T72RW - Change in the name and/or address of the applicant/proprietor - notification of entry in the Register	27/06/2018	
		Recordal	014477999	T72RW - Change in the name and/or address of the applicant/proprietor - notification of entry in the Register	27/06/2018	
		EUTM	013002928	L304 – Cover letter for registration certificate	21/07/2016	
		EUTM	013002928	Certificate	20/07/2016	
		EUTM	013002928	L304 – Cover letter for registration certificate	01/07/2015	
		EUTM	013002928	Certificate	01/07/2015	
		Recordal	009158026	T72RR - Change in the name and/or business address of a representative - notification of entry in the Register	13/01/2015	
		EUTM	013002928	Miscellaneous	05/12/2014	
		EUTM	013002928	L123 - EUTM application: Refusal of application / Decision on the inherent distinctiveness of an application	03/12/2014	
		EUTM	013002928	L110 - Notice of grounds for refusal of application for a European Union trade mark	13/08/2014	
Showing 1 to 10 of 105 entries						

## IR transformation

No data

## Seniority

No data

## Exhibition priority

No data

## Priority

No data

## Publications

Bulletin number	Date	Section	Description
2015/009	15/01/2015	C.2.1	Representative - Change of name and professional address
2015/054	20/03/2015	A.1	Applications published under Article 44 EUTMR (Article 39 EUTMR before 01/10/2017)
2015/120	01/07/2015	B.1	Registrations with no amendments since the application was published
2016/134	20/07/2016	B.4.2	Correction of errors - Relative errors
2018/120	28/06/2018	C.1.3	Proprietor - Change of name and address
Showing 1 to 5 of 5 entries			

## Cancellation

No data

## Records



Bulletin number	Date	Section	Filing number	Title	Subtitle
			007977294	Trade mark	Divisions of EUTM registrations
2015/009	15/01/2015	C.2.1	009158026	Representative	Change of name and professional address
2016/134	20/07/2016	B.4.2	011147439	Correction of errors	Relative errors
2018/120	28/06/2018	C.1.3	014477999	Proprietor	Change of name and address
Showing 1 to 4 of 4 entries					


## Oppositions

No data

## Appeals

No data

## Decisions

	Case number	Type	Case	Legal status	Keywords	Status	Decision date
	Refusal 013002928	Refusal		Article 7(1)(c) CTMR		Partially rejected	03/12/2014
Showing 1 to 1 of 1 entries							

## Renewals

No data

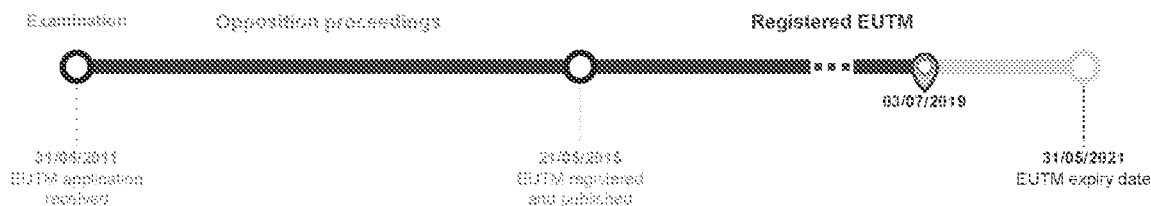
## Trade mark relations

Type	Filing number
Child Division	011571866
Showing 1 to 1 of 1 entries	

## EUTM file information

**ICLOUD**  
014067755

## Timeline



## Trade mark information

Name	<b>ICLOUD</b>	Filing date	<b>31/05/2011</b>
Filing number	<b>014067755</b>	Registration date	<b>15/05/2015</b>
Basis	<b>EUTM</b>	Expiry date	<b>31/05/2021</b>
Date of receipt	<b>31/05/2011</b>	Designation date	
Type	<b>Word</b>	Filing language	<b>English</b>
Nature	<b>Individual</b>	Second language	<b>Italian</b>
Nice classes	<b>9, 16, 25, 35, 37, 38, 41 ( Nice Classification )</b>	Application reference	<b>306187-6406/PFA/TG1</b>
Vienna Classification		Trade mark status	<b>Registered</b>
		Acquired distinctiveness	<b>No</b>

## Goods and services

English (en)

**9** Accessories, parts, fittings, and testing apparatus for all of the following goods: Computer hardware; microprocessors, memory boards, monitors, displays, keyboards, cables, modems, printers, disk drives, adapters, adapter cards, connectors and drivers; blank computer storage media; magnetic data carriers; computer software; computer software for authoring, downloading, transmitting, receiving, editing, extracting, encoding, decoding, displaying, storing and organizing text, graphics, images, and electronic publications; computer software and firmware, namely, operating system programs, data synchronization programs, and application development tool programs for personal and handheld computers; computer hardware and software for providing integrated telephone communication with computerized global information networks; pre-recorded computer programs for personal information management, database management software, character recognition software, telephony management software, electronic mail and messaging software, paging software, mobile telephone software; database synchronization software, computer programs for accessing, browsing and searching online databases, computer software for the redirection of messages, Internet e-mail, and/or other data to one or more electronic handheld devices from a data store on or associated with a personal computer or a server; computer software for the synchronization of data between a remote station or device and a fixed or remote station or device; downloadable electronic publications in the nature of books, plays, pamphlets, brochures, newsletters, journals, magazines, and periodicals on a wide range of topics of general interest; handheld digital electronic devices and software related thereto; MP3 and other digital format audio players; hand held computers, tablet computers, personal digital assistants, electronic organizers, electronic notepads; mobile digital electronic devices, global positioning system (GPS) devices, telephones; handheld and mobile digital electronic devices for the sending and receiving of telephone calls, faxes, electronic mail, and other digital data; cordless telephones; mobile telephones; parts and accessories for mobile telephones; facsimile machines, answering machines, cameras, videophones, telephone-based information retrieval software and hardware; electronic handheld units for the wireless receipt, storage and/or transmission of data and

messages, and electronic devices that enable the user to keep track of or manage personal information; electronic communication equipment and instruments; telecommunications apparatus and instruments; fonts, typefaces, type designs and symbols in the form of recorded data; chips, discs and tapes bearing or for recording computer programs and software; random access memory, read only memory; solid state memory apparatus; computer and electronic games; user manuals in electronically readable, machine readable or computer readable form for use with, and sold as a unit with, all the aforementioned goods; apparatus for data storage; hard drives; miniature hard disk drive storage units; audio video discs, CD-ROMs, and digital versatile discs; mouse pads; batteries; rechargeable batteries; chargers; chargers for electric batteries; headphones; stereo headphones; in-ear headphones; stereo speakers; audio speakers; audio speakers for home; monitor speakers; speakers for computers; personal stereo speaker apparatus; radio receivers, amplifiers, sound recording and reproducing apparatus, electric phonographs, record players, high fidelity stereo apparatus, tape recorders and reproducing apparatus, loudspeakers, multiple speaker units, microphones; digital audio and video devices; audio cassette recorders and players, video cassette recorders and players, compact disc players, digital versatile disc recorders and players, digital audio tape recorders and players; digital music and/or video players; radios; video cameras; audio, video, and digital mixers; radio transmitters; car audio apparatus; computer equipment for use with all of the aforesaid goods; electronic apparatus with multimedia functions for use with all of the aforesaid goods; electronic apparatus with interactive functions for use with all of the aforesaid goods Parts and fittings for all the aforesaid goods Covers, bags and cases adapted or shaped to contain all of the aforesaid goods, made of leather, imitations of leather, cloth, or textile materials.

**16** Paper, cardboard and goods made from these materials, not included in other classes; printed matter; book binding material; photographs; stationery; stickers; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); advertising materials; printers' type; printing blocks; printed publications; periodicals; books; magazines; newsletters; brochures; booklets; pamphlets; manuals; journals; leaflets; greeting cards; advertising and promotional material; catalogues relating to computer software; computer brochures; computer handbooks; computer hardware publications; computer hardware reference manuals; computer hardware users guide; computer instruction manuals; computer manuals; publications relating to technology, digital technology and gadgets; catalogues relating to musical apparatus and instruments; music books; music instruction manuals; music magazines; excluding adhesives, adhesive tape and sheets.

**25** Clothing, footwear, headgear.

**35** Advertising agency services; advertising, marketing, and promotion services; advertising and marketing consultation; sales promotion services; promoting the goods and services of others; conducting market research; analysis of advertising response and market research; preparation, production, and dissemination of advertisements and advertising material for others; media planning services; administration of consumer loyalty programs; arranging and conducting incentive rewards programs to promote the sale of goods and services; business services, namely, dissemination of advertising for others via computer networks and global communication networks; compilations of directories for publishing on the Internet and other electronic, computer and communications networks; retail store and online retail store services in the fields of computer hardware, computer software, consumer electronics, telecommunications and multimedia goods, mobile phones, handheld digital electronic devices, and other consumer electronics and accessories, peripherals, and carrying cases for such products; retail store services provided via the Internet and other computer, electronic and communications networks in the field of computer hardware, computer software, consumer electronics, telecommunications and multimedia goods and accessories, mobile phones, handheld digital electronic devices, and other consumer electronics and accessories, peripherals, and carrying cases for such products; retail store services in the field of books, magazines, periodicals, newsletters, journals and other publications on a wide range of topics of general interest, provided via the Internet and other computer, electronic and communications networks; retail store services in the field of entertainment featuring movies, television programs, sporting events, musical works, and audio and audiovisual works, via the Internet and other computer, electronic and communications networks; retail store services featuring computer, electronic and entertainment products, telecommunications apparatus, mobile phones, handheld mobile digital electronic devices, and other consumer electronics, computer software, and accessories, peripherals, and carrying cases for such products, via the Internet and other computer, electronic and communications networks; product demonstrations provided in-store and via global communications networks and other electronic and communications networks; information, advisory and consultancy services relating to all the aforesaid.

**37** Repair and installation services; maintenance, installation and repair of computer hardware, computer peripherals and consumer electronic devices; consulting services in the field of maintenance of computer hardware, computer peripherals, and consumer electronic devices.

**38** Providing user access to the Internet (service providers).

**41** Providing an online searchable database of text, data, image, audio, video, and multimedia content in the field of entertainment featuring music, video, film, books, periodicals, television, games and sports; information, advisory and consultancy services relating to all the aforesaid.

## Description

No data

## Owners

### Apple Inc.

ID	839	Country	US - United States	Correspondence address	
Organisation	Apple Inc.		California	Apple Inc.	Hidden. You can set your contact details to be publicly available via the User Area.
Legal status	Legal entity	State/country	Cupertino	One Apple Park Way	
State, district or t...	California	Town	Cupertino	Cupertino, California 95014	

Post code **95014**  
 Address **One Apple  
Park Way**

ESTADOS UNIDOS (DE  
AMÉRICA)

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contact details to be publicly  
available via the User Area.

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contact details to be publicly  
available via the User Area.

## Representatives

### LOCKE LORD LLP

ID **41701** Country **GB - United Kingdom** Correspondence address  
 Organisation **n/a** State/country **n/a** Locke Lord (UK) LLP  
 Legal status **Legal person** Town **London** 201 Bishopsgate  
 Type **Association** Post code **EC2M 3AB** London EC2M 3AB  
 Address **201 Bishopsgate** REINO UNIDO

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## Correspondence

From	Procedure	Filing number	Subject	Date	Actions
Recordal	014477999	T72RW - Change in the name and/or address of the applicant/proprietor - notification of entry in the Register	27/06/2018		
Recordal	014477999	T72RW - Change in the name and/or address of the applicant/proprietor - notification of entry in the Register	27/06/2018		
EUTM	014067755	L304 – Cover letter for registration certificate	26/11/2015		
EUTM	014067755	Certificate	25/11/2015		
Recordal	010195371	Correction of errors - notification of entry	23/11/2015		
Recordal	010195371	T5EM – Communication – waiting for translations	02/11/2015		
EUTM	014067755	L329C - Decision on revocation of an EUTM registration issued in error	20/10/2015		
Recordal	010195371	Letter to the EUIPO	18/08/2015		
EUTM	014067755	L329A - Information that the Office intends to issue a decision on <i>ex officio</i> revocation of an EUTM registration that was issued in error	13/08/2015		
EUTM	014067755	L304 – Cover letter for registration certificate	22/05/2015		

Showing 1 to 10 of 87 entries

## IR transformation

No data

## Seniority

No data

**-Act XI of 1997 on the Protection of Trademarks and Geographical Indications (extract)**

**Article 1**(1) Trademark protection shall be granted for any signs capable of being represented graphically provided that these are capable of distinguishing goods or services from those of other undertakings.

(2) Signs which may be granted trademark protection are in particular:

- (a) words, combination of words, including personal names and slogans,
- (b) letters, numerals,
- (c) figures, pictures,
- (d) two- or three-dimensional forms, including the shape of goods or of their packaging,
- (e) colors, combination of colors, light signals, holograms,
- (f) sound signals, and
- (g) combination of signs under (a) to (f).

**Article 2** (1) A sign may not be granted trademark protection if it does not meet the requirements of Article 1.

(2) A sign shall be excluded from trademark protection if:

(a) it is devoid of any distinctive character, in particular if it consists exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service, or other characteristics of the goods or services, or which have become customary in the current language or in the practices of trade;

(b) it consists exclusively of a shape which results from the nature of the goods themselves or which is necessary to obtain a technical result or which gives substantial value to the goods.

(3) A sign shall not be excluded from trademark protection in accordance with paragraph (2)(a) if, either before or after the date of priority, it has acquired a distinctive character.

**Article 3** (1) A sign may not be granted trademark protection if:

- (a) it is contrary to public policy or to accepted principles of morality;
- (b) it is liable to deceive consumers as to the nature, quality, geographical origin or other characteristics of the goods or services;
- (c) its registration was applied for in bad faith.

(2) A sign shall be excluded from trademark protection if:

(a) it consists exclusively of State emblems or other emblems of an authority or international organization as defined in the Paris Convention for the Protection of Industrial Property;

(b) it relates to medals, badges, armorial bearings, not covered by subparagraph (a) above, or to official signs and hallmarks indicating control and warranty which are of public interest;

(c) it consists of symbols having a close relation to religious or other beliefs.

(3) Trademark protection shall be granted with the consent of the competent authority to signs of which the emblems defined under paragraph 2 (a) and (b) form only an element.

(4) A sign may not be granted trademark protection if it consists of or contains a geographical indication registered pursuant to this Act or to European Community law. This provision shall apply to goods which do not originate in a geographical area corresponding to the geographical indication or in connection with which the geographical indication cannot be used for any other reason on the basis of the provisions of this Act or of European Community law.

**Article 4** (1) A sign may not be granted trademark protection:

(a) with respect to identical goods or services, if the sign with the later date of priority is identical with an earlier trademark;

(b) if because of its identity with or similarity to the earlier trademark and the identity or similarity of the goods or services there exists a likelihood of confusion on the part of the consumers;

(c) with respect to dissimilar goods or services if the sign with the later date of priority is identical with or similar to an earlier trademark having a reputation in the country where the use without due cause of the later sign would take unfair advantage of or be detrimental to the distinctive character or the repute of the earlier trademark.

(2) "Earlier trademark" means a trademark whose registration was applied for with an earlier date of priority or – for the purposes of paragraph (1)(a) and (b) – a sign which has become well-known at an earlier date in the country under the Paris Convention for the Protection of Industrial Property even if that sign is not registered. "Earlier trademark" shall also mean – depending on the registration of the sign – an earlier trademark application.

(3) A sign may not be refused trademark protection if it conflicts with an earlier trademark, which has not been used by the holder in accordance with the provisions of Article 18.

(4) For the purposes of this Act, the likelihood of confusion includes the likelihood of association with the earlier trademark.

**Article (5)** A sign may not be granted trademark protection:

(a) if it would infringe earlier personal rights of others, in particular a right in a name or of personal portrayal;

(b) if it would conflict with an earlier copyright or industrial property right of others, including conflict with the name of a protected plant variety.

(2) A sign shall not be granted trademark protection

(a) if it has been used effectively in the country without registration where the use of the sign without the consent of the prior user would be contrary to law; and

(b) if, with respect to identical or similar goods or services, it is identical with or similar to a trademark whose protection has lapsed by reason of expiration and less than two years have elapsed since the lapse, unless the earlier trademark had not been used in conformity with the provisions of Article 18.

(3) In determining whether a right, use or expiration is deemed as earlier within the meaning of paragraphs (1) and (2), the priority of the application for registration shall be taken into account.

**Article (6)** A sign shall be excluded from trademark protection if the representative or agent applies for registration in his own name without the holder's authorization, unless the representative or agent justifies his action.

**Article 7**(1) A sign may not be refused trademark protection in accordance with Articles 4 and 5 if the holder of the earlier right consents to the registration of the later sign.

(2) A declaration of consent shall be valid if drawn up as a public instrument or a private document providing sufficient evidence.

(3) A declaration of consent may be contested under those provisions of the Civil Code that concern actions for avoidance of a contract by reason of mistake, deception or threat; the declaration may not be withdrawn and may not be replaced by the decision of a Court.

**Article 8**(1) Trademark protection shall be granted for a sign if

(a) it satisfies the requirements of Article 1 and is not excluded from trademark protection under the terms of Articles 2 to 7 and

(b) the relevant application complies with the requirements laid down by this Act.