



PROTOCOLE DE MADRID

NOTIFICATION DE REFUS PROVISOIRE DE PROTECTION FONDE SUR UNE OPPOSITION (Règle 17.1)

Référence : 0016/2019/OAPI/DG/DGA/DMSD/DAJ/SCG/Madrid

I.	Office qui émet la notification : OAPI
II.	Numéro et date de l'enregistrement international : 1433787
III.	Nom du titulaire (ou autre indication permettant de confirmer l'identité de l'enregistrement international) : Xiaomi Inc. Floor 13, Rainbow City Shopping Mall II of China Resources, NO. 68, Qinghe Middle Street, Haidian District Beijing, China
IV.	☒ Refus provisoire fondé sur une opposition¹
V.	☒ Refus provisoire pour tous les produits et services des classes 9, 35, 38 et 42 de l'enregistrement International ☐ Refus provisoire pour certains des produits et/ou services : [suivre l'indication des produits et/ou services qui sont touchés ou qui ne sont pas touchés] ²
VI.	Motifs de refus [(le cas échéant, voir la rubrique VII)] : Violation des droits rattachés à la marque de l'opposant, notamment par la forte similarité des signes « Mi Cloud » et « ICLOUD » pour désigner les produits et services identiques et similaires des mêmes classes 9, 35, 38 et 42.
VII.	Informations relatives à la publication de la marque : i.) Date de l'opposition : 09 septembre 2019 ii.) Référence de la publication : BOPI n° 02MQ/2019 du 08 mars 2019

¹ Le nom et l'adresse de l'opposant doivent aussi être indiqués.

² Lorsque tous les produits ou services classés dans une classe donnée sont visés, on indiquera "tous les produits (ou tous les services) de la classe X". Dans tous les cas, il conviendra d'indiquer clairement si ces produits et/ou services sont concernés ou s'ils NE SONT PAS concernés.

VIII. Renseignements relatifs à une marque antérieure³ :

i) Date et numéro de dépôt et, le cas échéant, date de priorité :

ii) Date et numéro d'enregistrement (s'ils sont disponibles) :

N° 68001 et N° 68000 du 1^{er} juin 2011

iii) Nom et adresse du titulaire :

Apple Inc.

**Agent : S.C.P AKKUM AKKUM & Associates BP : 4866, Tél : +237 222
21 80 43 YAOUNDE, Cameroun**

iv) Reproduction de la marque : (Prévoir un cadre 8/8 cm).

ICLOUD

v) Liste de tous les produits et services, ou des produits et services pertinents :

Tous les produits et services des classes 09, 35, 38 et 42

IX. Délai pour désigner un mandataire local

A dater de la communication de la présente notification au Bureau International, le titulaire de l'enregistrement international est tenu de désigner un mandataire local dans un délai de 2 mois (voir liste des mandataires agréés sur le site internet de l'OAPI : www.oapi.int).

A défaut, l'OAPI rend sa décision par laquelle elle refuse la protection de l'enregistrement international.

X. Dispositions essentielles correspondantes de la loi applicable [(voir le texte à la rubrique XIV)]

XI. Informations relatives à la suite de la procédure :

i) Délai pour présenter un recours suite à l'opposition :

3 mois à compter de la réception par l'intéressé de la notification de la décision faisant suite à l'opposition.

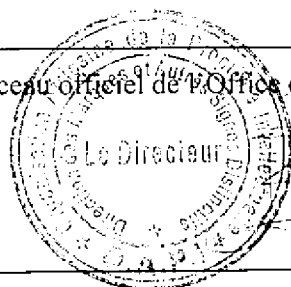
³ Lorsque les motifs sur lesquels se fonde le refus provisoire ont trait à une marque antérieure, comme cela aura été indiqué à la rubrique VI. On pourra fournir les renseignements demandés dans cette rubrique en annexant un extrait imprimé du registre ou de la base de données.

ii) Autorité auprès de laquelle le recours doit être déposé :
Commission Supérieure de Recours de l'OAPI.

iii) Assistance d'un mandataire local obligatoire:
(voir liste des mandataires agréés sur le site internet de l'OAPI : www.oapi.int).

XII. Date de la notification de refus provisoire : **19 septembre 2019**

XIII. Signature ou sceau officiel de l'Office qui émet la notification :



XIV. Dispositions essentielles correspondantes de la loi applicable :

Article 18, Annexe III, Accord de Bangui : Opposition

- 1) Tout intéressé peut faire opposition à l'enregistrement d'une marque en adressant à l'OAPI dans un délai de 6 mois, à compter de la publication de l'enregistrement querellé, un avis écrit exposant les motifs d'opposition, lesquels doivent avoir pour fondement une violation des dispositions des articles 2 ou 3 de la présente Annexe ou d'un droit enregistré antérieur appartenant à l'opposant.
- 2) L'OAPI envoie une copie de l'avis d'opposition au déposant ou à son mandataire qui peut répondre à cet avis en motivant sa réponse, dans un délai de 3 mois renouvelable une fois. Cette réponse est communiquée à l'opposant ou à son mandataire. Si sa réponse ne parvient pas dans le délai prescrit, le déposant est réputé avoir retiré sa demande d'enregistrement et cet enregistrement est radié.
- 3) Avant de statuer sur l'opposition, l'OAPI entend les parties ou l'une d'elles, ou leur mandataire, si la demande lui en est faite.
- 4) La décision de l'OAPI sur l'opposition est susceptible de recours auprès de la Commission supérieure de recours pendant un délai de 3 mois à compter de la réception de la notification de cette décision aux intéressés.
- 5) La décision définitive de radiation est publiée au Bulletin officiel de l'OAPI.

AKKUM, AKKUM & ASSOCIATES LLP

(ATTORNEYS AT LAW & IP ATTORNEYS)

ACCREDITED AT THE OAPI

(Avocats - Mandataire Agréé auprès de l'OAPI)

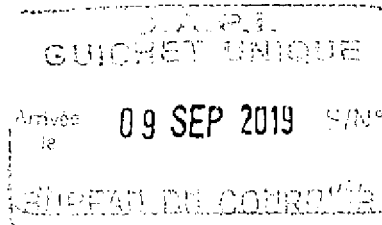
P.O BOX 4966 YAOUNDE - Tel.: (237) 222 21 80 43 - Fax: (237) 222 21 80 44
REPUBLIC OF CAMEROON.

Yaoundé September 09, 2019

Our/Ref : AALF/FAC9/21616/19

V/Ref: NEW MATTER

THE DIRECTOR GENERAL
O. A. P. I.
B.P. 887
YAOUNDE



Dear Sir,

Re: Opposition to the registration of trade mark no. 105317 Mi Cloud in classes 9, 35, 38 and 42 in the name of Xiaomi Inc. by Apple Inc.

We write to file a statement of opposition to the registration of the above-mentioned trade mark, for and on behalf of our client, Apple Inc.

Please find enclosed the following:

- OAPI Trade Mark Opposition Form
- Statement of grounds of opposition
- Payment advice to OAPI in respect of the opposition fees

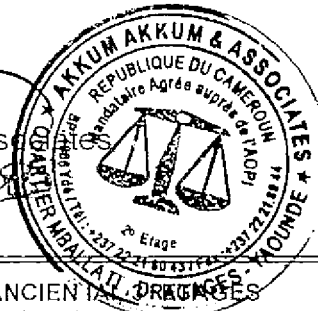
The annexures referred to in the statement of opposition will follow in due course.

We look forward to receiving confirmation that our client's notice of opposition has been served on the trade mark Applicant, in due course.

The Opponent reserves its rights to supplement its opposition with additional grounds and evidence before the hearing of this matter.

Kind regards,

SCP AKKUM, AKKUM & Assoc
(Mandataire)



QUARTIER MBALLA II, DRAGAGES, IMMEUBLE ANCIEN 1A
E-mail : akkumlaw@akkumlaw.com - URL : www.akkumlaw.com
N° Contribuable M 100500021656G



Adams & Adams

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PO BOX 1000 • Portland, ME 04112 • 207.774.2200

DOCEX di Petrosia

PHONE 401-492-6000

FAX 714/944-4544

EMAIL: andrew@andrewjones.com

WLB www.courts.wisconsin.gov

On Reference: OT479090A00/W/G/srk

Your reference: **NEW INSTRUCTION**

Date: 6 September 2019

Dear Sirs

1. We have instructed Akkum, Akkum & Associates LLP to file an opposition to International Registration no. 1433787 MI CLOUD in classes 9, 35, 38, 42 which is due by 9 September 2019.
2. Please deduct the amount indicated in the table below from the Adams & Adams deposit account.

	FCFA	EUROS
File notices of opposition	150,000	228.67
TOTAL	150,000	228.67

Yours faithfully
ADAMS & ADAMS

Checked and signed by author and sent electronically

OFFICES: Pretoria (Johannesburg) Cape Town Durban
Nigeria (Swaziland) Tanzania (including Zanzibar)
Partners: Calvin Foster Howard Rogers Dana Tandon Johan du Preez Colin MacLennan Brian Holman Marek du Plessis Mariusella Cuperty Gerardo de Rivas Phil Ellis Louis van der Walt Charles Pienaar
Special Agents: Simon Brown Grégoire Waller Joseph Goudha David de Vries André Venter Hugo van der Westhuizen Brian C. van der Grinten David Schreiner Megan Mervin Mark Theron de Vries
Field Agents: Gary de la Gardie Nick Crenly Lucy Snyders Steven de la Gardie Tony Fawcett Dianne Dorman Aletta van der Merwe John Durrin Debbie Marshall Robert Ross John Harty
Managers: Swenepoel Rocco Gioia Nicolette Koch James Davies Nicky Gorman Vernon Jansz Geoffrey Fudels Joe Maree Hilda du Toit Franswaag Nilsen Singh Isler Visagor Dieter Welthagen Hendrik Mouton
Specialists: Wanda Steinhilber Virginia Griffiths Judith Garmichael Jan George Wendy Hootsby Nicolette Bigger Ruth van der Bode Andrew Mawer Veronique Schreiner John Schreiner Ghislain Katschke
Stephen Ellis: Alicia Lopez Alicia Costleman Andrew Philp
Senior Consultants: Emma de Bussch Chris Joubert Gregor Jordan Tim de Weert Gavin Houtz Jan de Vries
Associates: Delmaro Mariscano Theresa Davis Clive Bloemhans Mark Pity Anissa Johnson Nicole de Klerke Felice Koenigshagen Hildebrandt Malmgren Wynand Louw Wensley Louw Jan Rammelaar Jorinde de Vries
Internals: Ginkata Janine Swenepoel Leticia van der Merwe Terry Wain Edward Wain Patricia de Klerk Marijn van der Merwe John de Klerk Janine van der Merwe
Technical: Ginkata Janine Swenepoel Ingrid de Manincora Arjan Nuytens Margaret Jones Jan Rietveld Jan de Vries
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Consultants: James Houtz Sandra Steyn Catherine Ruppertschick Mark de Klerk Brian Singh Janine van der Merwe John Adams Lutz van der Merwe Megan Mervin
Specialists: David Festus
Level 4 B&B: Christopher van der Merwe

OPPOSITION À L'ENREGISTREMENT D'UNE MARQUE

CADRE RÉSERVÉ À L'OAPI

Référence opposition :

Date de l'opposition :

1. OPPOSANT:	Personne physique ☐	Personne morale ☒
Nom et Prénom ou dénomination sociale : Apple Inc., One Apple Park Way, Cupertino, California, United States of America		
Adresse pour la correspondance : /		
Pays de résidence : /		
Téléphone : /	Télécopie :	E-mail :

2. MANDATAIRE (le cas échéant) :	Personne physique ☐	Personne morale ☒
Nom et Prénom ou dénomination sociale : S.C.P AKKUM, AKKUM & Associates		
Téléphone : 222 21 80 43		
Télécopie :		
E-mail : akkumlaw@akkumlaw.com		

3. BASE DE L'OPPOSITION

3.1. Droit enregistré antérieur	
Nature du droit :	violation des dispositions de l'annexe III,
Marque ☒	Accord de Bangui :
Nom commercial ☐	Art. 3a) Absence du caractère distinctif : ☒
Dessin ou modèle industriel ☐	Art. 3c) contraire à ordre public, bonnes mœurs et lois ☐
Indication géographique ☐	Art. 3b) identité ou similitude avec la marque d'un autre titulaire ☒
Dénomination variétale ☐	Art. 3d) induit en erreur le public... ☐
	Art. 3e) reproduit, imite ou contient armoiries, emblèmes, etc. ☐

3.2. Référence des droits antérieurs :

Nom et Prénom ou dénomination sociale du déposant :

Apple Inc.

Désignation du signe (ou reproduction de signe complexe en annexe) :

Date de dépôt : **01/06/2011**

N° d'enregistrement :

N°s 68001 et 68000

N° de la ou des classes, le cas échéant : **09, 35, 38 et 42**

Date de Publication de l'enregistrement et N° BOPI: **BOPI 5/2011**

Date du renouvellement :

Nature de la marque :	Marque régionale ☒	Marque internationale ☐
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Joindre la liste des produits et ou services / le genre d'activités (nom commercial) en annexe

(utiliser l'imprimé (PS) et cocher la case)

4. ENREGISTREMENT DE MARQUE CONTESTÉ

Désignation de la marque (ou reproduction en annexe) :

N° d'enregistrement international, le cas échéant : 1433787

Date de dépôt de la marque et N° d'enregistrement OAPI : 105317

N° de la ou des classes de produits et ou services : 09, 35, 38 et 42

N° du BOPI et date de parution : 02MQ/2019 du 08/03/19

Joindre la liste des produits et ou services en annexe



Titulaire de droit (Nom(s) et Prénom(s)/ Dénomination sociale) : **Xiaomi Inc.**

Adresse du titulaire : Floor 13, Rainbow
City Shopping Mall II of
China Resources No. 68, Qinghe Middle
Street, Heidian District, Beijing, China.

Mandataire (le cas échéant): R.A.S.

Adresse du mandataire : R.A.S.

5. ETENDUE DE L'OPPOSITION

Opposition à tous les produits et ou services couverts par l'enregistrement ☒

Opposition à une partie des produits et ou services couverts par l'enregistrement

Préciser dans la rubrique suivante



5.1. Enumérer les produits et ou services visés par l'opposition :

N° classe(s)	Produit(s) et ou service(s)
09, 35, 38, et 42	Voir imprimé (PS) ci- joint

(utiliser l'imprimé (PS) si nécessaire et cocher la case)

6. EXPOSÉ DES MOTIFS DE L'OPPOSITION

1) Sur la comparaison des signes

Voir imprimé (PS) ci-joint

(utiliser l'imprimé (PS) si nécessaire et cocher la case)

2) Sur la comparaison des produits/services

Voir imprimé (PS) ci-joint

(utiliser l'imprimé (PS) si nécessaire et cocher la case)

3) Sur les autres moyens de l'opposition

R.A.S.

(utiliser l'imprimé (PS) si nécessaire et cocher la case)

7.

MONTANT TAXE PAYÉE en Fcfa :

150.000

MOYEN DE PAIEMENT :

Versement espèces

Chèque

Virement bancaire

X

X

8. PIÈCES JOINTES :

I. Justificatif paiement taxe d'opposition

II. Pouvoir du mandataire, le cas échéant

III. Reproduction de signe(s) antérieur(s) invoqué(s)

IV. Reproduction de la marque contestée

V. Autres (à préciser)

X

9.

NOM ET QUALITÉ :

DU SIGNATAIRE :

FELIX MOFOR

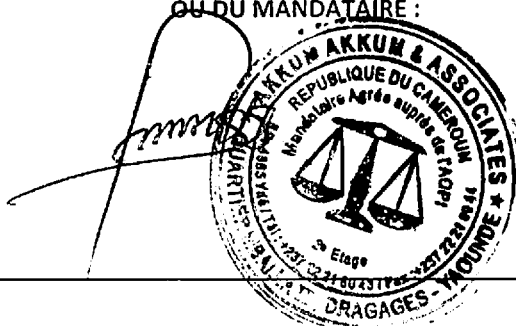
Collaborateur

SIGNATURE DE L'OPPOSANT

OU DU MANDATAIRE :

Fait à, Yaoundé

Le 09/09/2019



PAGE SUPPLEMENTAIRE

NB. Faire usage de cette page dans l'ordre des rubriques à compléter. Indiquer le n° de la rubrique concernée, son titre et les éléments complémentaires.

5.1. Enumérer les produits et ou services visés par l'opposition :

Marque **MI CLOUD** N° 105317

N° internationale : 1433787

(511) 9, 35, 38 et 42

Produits et services désignés :

Classe 9 : Applications logicielles informatiques, téléchargeables; appareils d'intercommunication; baladeurs multimédias; appareils photographiques; écrans vidéo; appareils de commande à distance; instruments de mesure; capteurs; puces [circuits intégrés]; diapositives; installations électriques de prévention contre le vol; batteries électriques.

Classe 35 : Publicité; services de comptabilité; services de recherche de parrainages; mise à disposition d'espace sur des sites Web pour la promotion de produits et services; mise à disposition d'informations commerciales par le biais d'un site Web; mise à disposition de places de marché en ligne pour acheteurs et vendeurs de produits et services; services de promotion des ventes pour des tiers; services de conseillers en gestion de personnel; services de délocalisation d'entreprises; mise à jour et maintenance de bases de données informatiques.

Classe 38 : Transmission de messages; communications par terminaux d'ordinateurs; transmission de messages et d'images assistée par ordinateur; fourniture d'accès utilisateur à des réseaux informatiques mondiaux; services de fourniture d'accès à des bases de données; mise à disposition de forums de discussion sur Internet; mise à disposition de forums en ligne; services de transmission de vidéos à la demande; services de diffusion de programmes de télévision payants; diffusion de programmes de télévision.

Classe 42 : Télésurveillance de systèmes informatiques; services de conception de logiciels informatiques; services de stockage électronique de données; conversion de données ou de documents d'un support physique vers un support électronique; informatique en nuage; logiciels en tant que services [SaaS]; services d'hébergement de sites informatiques [sites Web]; recherches techniques; dessin industriel; services de conception de décors d'intérieur.

PAGE SUPPLEMENTAIRE

NB. Faire usage de cette page dans l'ordre des rubriques à compléter. Indiquer le n° de la rubrique concernée, son titre et les éléments complémentaires.

3.2. Référence des droits antérieurs :

Liste des produits et ou services des marques de l'opposante

Registration no. : 68001

Trade Mark: : ICLOUD

Class : 9

Class 9: Computers, computer peripheral devices, computer terminals; computer hardware; computer gaming machines, 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; accessories, parts, fittings, and testing apparatus for 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.

Registration no. : **68000**
Trade Mark: : **ICLOUD**
Classes : **35, 38 & 42**

Classe 35 : Business management; business administration; business consulting services; providing office functions; 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; design, creation, 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; 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; providing business and commercial information over computer networks and global communication networks; business services, namely, providing computer databases regarding the purchase and sale of a wide variety of products and services of others;

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; retail store services provided via the Internet and other computer, electronic and communications networks; 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; subscription services, namely, providing subscriptions to text, data, image, audio, video, and multimedia content, provided via the Internet and other electronic and communications networks; downloadable pre-recorded text, data, image, audio, video, and multimedia content for a fee or pre-paid subscription, provided via the Internet and other electronic and communications networks; arranging and conducting of commercial, trade and business conferences, shows, and exhibitions; information, advisory and consultancy services relating to all the aforesaid

Classe 38 : *Telecommunications; communication and telecommunication services; telecommunication access services; communications by computer; communication between computers; electronic sending of data and documentation via the Internet or other databases; supply of data and news by electronic transmission; providing telecommunication access to websites and electronic news services online allowing the download of information and data; providing telecommunication access to web sites on the Internet; delivery of digital music by telecommunications; providing wireless telecommunications via electronic communications networks; wireless digital messaging, paging services, and electronic mail services, including services that enable a user to send and/or receive messages through a wireless data network; one-way and two-way paging services; communication by computer, computer intercommunication; telex, telegram and telephone services; broadcasting or transmission of radio and television programs; time sharing services for communication apparatus; provision of telecommunications access and links to computer databases and the Internet; electronic transmission of streamed and downloadable audio and video files via computer and other communications networks; webcasting services (transmission); delivery of messages by electronic transmission; provision of connectivity services and access to electronic communications networks, for transmission or reception of audio, video or multimedia content; provision of telecommunications connections to electronic communication networks, for transmission or reception of audio, video or multimedia content; providing telecommunication access to digital music web sites on the Internet; providing telecommunication access to MP3 web sites on the Internet; delivery of digital music by telecommunications; provision of*

telecommunications connections to the Internet or computer databases; electronic mail services; telecommunication of information (including web pages); video broadcasting, broadcasting pre-recorded videos featuring music and entertainment, television programs, motion pictures, news, sports, games, cultural events, and entertainment-related programs of all kinds, via a global computer network; streaming of video content via a global computer network; subscription audio broadcasting via a global computer network; audio broadcasting; audio broadcasting of spoken word, music, concerts, and radio programs, broadcasting pre-recorded 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; streaming of audio content via a global computer network; electronic transmission of audio and video files via communications networks; communication services, namely, matching users for the transfer of music, video and audio recordings via communication networks; providing on-line bulletin boards for the transmission of messages among computer users concerning entertainment, music, concerts, videos, radio, television, film, news, sports, games and cultural events; rental and hire of communication apparatus and electronic mail-boxes; electronic news services; electronic communications consultancy; facsimile, message collection and transmission services; transmission of data and of information by electronic means, computer, cable, radio, teleprinter, teletype, electronic mail, telecopier, television, microwave, laser beam, communications satellite or electronic communication means; transmission of data by audio-visual apparatus controlled by data processing apparatus or computers; information, advisory and consultancy services relating to all the aforesaid; provision of telecommunication access time to web-sites featuring multimedia materials; providing telecommunication access to databases and directories via communications networks for obtaining data in the fields of music, video, film, books, television, games and sports; providing users with telecommunication access time to electronic communications networks with means of identifying, locating, grouping, distributing, and managing data and links to third-party computer servers, computer processors and computer users

Classe 42 : Application service provider (ASP) services featuring computer software; 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; scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; computer hardware and software consulting services; rental of computer hardware and software apparatus and equipment; multimedia and audio-visual software consulting services; computer programming; support and consultation services for developing computer systems, databases and applications; graphic design for the compilation of web pages on the Internet; information relating to computer hardware or software provided on-line from a global computer network or the Internet; creating and maintaining web-sites; hosting the web-sites of others; providing search engines for obtaining data via communications networks; application service provider (ASP) services featuring software for use in connection with online music subscription service, software that enables

users to play and program music and entertainment-related audio, video, text and multimedia content, and software featuring musical sound recordings, entertainment-related audio, video, text and multimedia content; providing temporary internet access to use on-line non-downloadable software to enable users to program audio, video, text and other multimedia content, including music, concerts, videos, radio, television, news, sports, games, cultural events, and entertainment-related programs; providing search engines for obtaining data on a global computer network; information, advisory and consultancy services relating to all the aforesaid; operating search engines; computer consulting and support services for scanning information into computer discs; creating indexes of online information, sites and other resources available on global computer networks for others; providing user access to the Internet (service providers); online social networking services; providing a social networking website.

6. EXPOSÉ DES MOTIFS DE L'OPPOSITION

1) Sur la comparaison des signes

THE OPPONENT'S GROUNDS OF OPPOSITION

1.

- 1.1 Article 18(1) of the Bangui Agreement provides that any interested person may oppose the registration of a trade mark by sending to the Organisation a written statement setting out the reasons for the opposition, which reasons must be based on an infringement either of the provisions of Article 2 or 3 of the Bangui Agreement, or a prior right belonging to the opposing party.
- 1.2 Article 3(b) of the Bangui Agreement provides that a mark may not be validly registered, if it so resembles a mark that belongs to another which is already registered, that it is liable to mislead or confuse, and which relates to the same or similar goods.
- 1.3 The Opposed Mark, **Mi Cloud**, wholly incorporates the Opponent's registered and well-known **iCloud** trade mark. In fact, the Opponent's **iCloud** trade mark is immediately recognisable in the Opposed Mark and it constitutes an identical reproduction of the Opponent's mark.
- 1.4 The Opposed Mark is near-identical to the Opponent's **iCloud** trade mark and the addition of the letter "M" is not sufficient to distinguish the Opposed Mark from the Opponent's **iCloud** trade mark. Phonetically, the "m" is of lesser significance in the pronunciation of the Opposed Mark and the emphasis is on the "i Cloud" portion of the mark. As a result, the Opposed Mark is phonetically practically identical to the Opponent's trade mark **iCloud**.
- 1.5 The Opposed Mark **Mi Cloud** is also visually very similar to the Opponent's **iCloud** trade mark.

- 1.6 The Opposed Mark therefore so nearly resembles the Opponent's iCloud trade mark that it is liable to mislead or cause confusion.

2) Sur la comparaison des produits/services

The Opponent owns prior registrations for its iCloud trade mark in the classes in respect of which the Applicant has sought registration. The goods and services in respect of which the Applicant is seeking registration of the Mi Cloud mark are identical and/or very similar to the goods and services in respect of which the Opponent owns prior registrations, and in respect of which the iCloud trade mark has become well-known.

- 1.8 In the circumstances, the Opposed Mark offends against the provisions of Article 3(b) of the Bangui Agreement, and is not eligible for registration.
- 1.9 Article 7 of the Bangui Agreement confers on the owner of a mark the exclusive right to use the mark, or a sign resembling it, and the exclusive right to prevent third parties from making use in business, without consent, of the identical or similar mark for the same or similar goods or services, where use is liable to cause confusion.
- 1.10 In light of the Opponent's extensive reputation in its iCloud trade mark, use of the near-identical mark, Mi Cloud, in relation to the very goods and/or services in respect of which the iCloud mark has been used and become well-known is likely to mislead or cause confusion.
- 1.11 The Opponent is therefore entitled to prevent the Applicant from using the Opposed Mark, which is confusingly similar to its iCloud trade mark, in relation to the goods and/or services for which the Applicant has sought registration of the Opposed Mark, which goods and/or services are identical or very similar to the goods and/or services in respect of which the Opponent has registered its iCloud trade mark.
- 1.12 Therefore, use of the Opposed Mark will amount to trade mark infringement in terms of Article 7 of the Bangui Agreement, which means that the Opposed Mark is contrary to law. The Opposed Mark should also be refused registration and registration should be cancelled as it is contrary to Article 3(c) of the Bangui Agreement.
- 1.13 Furthermore, given the extent of the reputation which the Opponent has established in its iCloud trade mark, the Applicant's filing of the Opposed Mark, which wholly incorporates the Opponent's famous iCloud trade mark, in relation to identical goods or services, is in bad faith.

1.14 Registration of the Opposed Mark is therefore also contrary to morality and contrary to Article 3(c) of the Bangui Agreement.

1.15 For all of the above reasons, the Opposed Mark infringes the prior rights of the Opponent and is liable to cancellation in terms of Article 18(1) of the Bangui Agreement.

2.

In view of the above, the Opponent prays for an order:

2.1 that trade mark no. 105317 **Mi Cloud** in classes 9, 35, 38 and 42 be removed from the Register; and

2.2 that the Applicant be ordered to pay the Opponent's costs, within the discretion of the above Honourable Tribunal.

Si nécessaire, continuer sur une page supplémentaire et cocher la case ci-après ☐

NOM ET QUALITE
DU SIGNATAIRE

FELIX MOFOR
Collaborateur

SIGNATURE DU DEPOSANT
OU DU MANDATAIRE

FAIT A YAOUNDE,
LE 09 SEPTEMBRE 2019

