

Notification of provisional refusal of an international registration designating New Zealand

1. **Office making the notification:** Intellectual Property Office of New Zealand
2. **Date of the notification of provisional refusal:** 6 July 2023
3. **Number of the international registration:** 1736617
Our reference: 1240434
4. **Representation of the mark:** UPI
5. **Name of the holder:** CHINA UNIONPAY CO., LTD.
6. **Basis for refusal:** Provisional refusal based on an *ex officio* examination.
7. **Scope of refusal:** Provisional refusal for all the goods and/or services.
8. **Grounds for refusal:**

We have examined your international registration designating New Zealand with reference to the Trade Marks Act 2002 (“the Act”), the Trade Marks Regulations 2003, (“the Regulations”) and our trade mark practice guidelines.

We cannot accept your designation now, for the reasons set out in this refusal.

Deadline to respond to this refusal: 6 July 2024

Sections 18(1)(b) and (c) – mark is descriptive and not distinctive

Objection	<p>We cannot register a mark that describes the goods and/or services, or some characteristic of them.</p> <p>Mark is descriptive</p> <p>A mark is descriptive if the average consumer would see the mark as a normal way of describing the goods and/or services it is applied to, or some characteristic of them.</p> <p>The Acronym Finder defines UPI as Unified Payments Interface.</p> <p>We consider the average consumers would understand the</p>
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	<p>mark as merely describing the goods and services, including point-of-sale terminals that utilise the United Payments Interface (UPI) and processing of debit and credit card payments via the UPI.</p> <p>Mark is not distinctive</p> <p>A trade mark is a sign that indicates the trade source of goods and/or services. A trade mark must distinguish one trader's goods and/or services from those of other traders.</p> <p>Our research indicates that multiple traders are using the term UPI to describe the provision of their financial services. Examples of this research have been attached at the end of this report.</p> <p>We consider that other traders are likely to want to use a mark like yours in relation to their goods or services, in the ordinary course of business and without improper motive. We also consider your mark is unlikely to act as a badge of origin for a single trader.</p>
Goods and/or services	All goods and services.
Relevant law	The relevant provisions of New Zealand law are listed below at 11.

9. Information relating to subsequent procedure:

Responding to this refusal

A response to this refusal can be made in writing via the IPONZ online case management system at www.iponz.govt.nz.

To respond, you will need to appoint a **local agent** to manage your New Zealand designation.

A local agent must have:

- an address for service in New Zealand or Australia, and
- an account in the IPONZ online case management system.

Note: If your designation has an international representative, you will still need to appoint a local agent to manage your New Zealand designation. Your local agent may or may not be the same as your international representative. We recommend that you engage the services of a local intellectual property professional to act as your local agent.

Timeframe for responding

If the holder does not respond by **6 July 2024**, this refusal becomes final for the specified goods and/or services.

Refusal still possible following opposition

If we subsequently accept the designation in New Zealand, refusal may still result from an opposition. The opposition period runs for three months from the date of advertisement of

the mark. It is possible that an opposition may be filed more than 18 months from the date we were notified of the international registration.

10. Signature of the Office:

Intellectual Property Office of New Zealand

Amy Boyes
Senior Trade Mark Examiner
+64 4 9011629
For the Commissioner of Trade Marks

11. Provisions of relevant law:

Trade Marks Act 2002

5 Interpretation

- (1) In this Act, unless the context otherwise requires,—
- trade mark—**
- (a) means any sign capable of—
 - (i) being represented graphically; and
 - (ii) distinguishing the goods or services of one person from those of another person; and
 - (b) includes,—
 - (i) except in section 85, a certification trade mark; and
 - (ii) except in section 85, a collective trade mark

18 Non-distinctive trade mark not registrable

- (1) The Commissioner must not register—
- (a) a sign that is not a trade mark;
 - (b) a trade mark that has no distinctive character;
 - (c) a trade mark that consists only of signs or indications that may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, time of production of goods or of rendering of services, or other characteristics of goods or services;
 - (d) a trade mark that consists only of signs or indications that have become customary in the current language or in the bona fide and established practices of trade.
- (2) The Commissioner must not refuse to register a trade mark under subsection (1)(b), (c), or (d) if, before the date of application for registration, as a result of either the use made of it or of any other circumstances, the trade mark has acquired a distinctive character.

19 Relevance of colour to distinctive character of trade mark

- (1) In determining the distinctive character of a trade mark, the Commissioner or the court, as the case may be, must consider whether or not the trade mark is, or is to be, limited in whole or in part to 1 or more specified colours.
- (2) A trade mark that is, or is to be, registered without limitation of colour is, or will be, registered for all colours.

Trade Marks Regulations 2003

45 Commissioner may request further information

The Commissioner may request further information from an applicant that will assist in the examination of the application.

Research examples

The screenshot shows the Google Play Store page for the app "Google Pay: Secure UPI payment" by Google LLC. The page features a large title, a 4.44 star rating from 2,400 reviews, and a download count of 500M+. A carousel of app screenshots is displayed below the rating. To the right, there are sections for "Developer contact", "Similar apps" (listing apps like "Paytm: Secure UPI Payments" and "PhonePe UPI Payment, Recharge"), and "More by Google LLC" (listing "Snapseed"). The "About this app" section describes the app's purpose for Indian users and mentions its update date as Jan 25, 2021. The "Data safety" section includes a link to the developer's privacy policy.

<https://play.google.com/store/apps/details?id=com.google.android.apps.nbu.paisa.user&gl=in>

ARTICLES

Unified Payments Interface: UPI and how it Works?

January 29, 2021 | 8 min read



UPI stands for Unified Payments Interface. To achieve a cashless economy India launched UPI payment, which is very fast and convenient. Additionally, it is a very secure payment method.

What is UPI?

UPI is a payment system launched by the National Payments Corporation of India (NPCI) in April 2016. It is a bank-led system that allows customers to make instant, real-time payments using their smartphones. The system is interoperable, meaning that customers of different banks can send and receive money using UPI.



<https://razorpay.com/blog/what-is-upi-and-how-it-works/>

Your full guide to UPI international transfers



Aman Saxena

15.02.22 (updated more than 1 year ago) 3 minute read

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Unified Payment Interface, or UPI for short, is a fast and seamless way to send money in India. Launched in 2016, the UPI app lets users send money through their registered mobile phones to other bank accounts. It is immediate and users can send money any time of day.

While UPI was started as a service domestically, it has now grown to allow for international payments to India with a user's UPI ID. So if you are abroad and want to send money to India, you can now do so simply with your recipient's UPI ID. Here is how it works.

⚠️ It's not possible to send money from India to countries abroad with UPI, but users in India can receive funds from abroad with UPI.

How to make an international transfer with UPI

UPI has allowed for international transfers to India with 2 different platforms- Wise and Western Union.

UPI transfers can be safer in some ways than regular transfers. Rather than sharing personal account information with a sender, a UPI user will only need to share their UPI ID. The transfers can be fast and cheap too depending on the platform that is used.

First, to make any transfer using UPI, make sure your receiver has set up a UPI account with their ID ready. Next, confirm that your receiver can accept international transfers into their local bank account. If that

<https://wise.com/in/blog/upi-international-transfers>