

OFFICE BENELUX
DE LA PROPRIÉTÉ
INTELLECTUELLE

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Organisation Mondiale de la Propriété Intellectuelle (OMPI)
Chemin des Colombettes 34
CH-1211 GENEVE 20
Suisse

La Haye, 07 mars 2016
Nos réf: oppo/2011736/JE
Contact: Jeanette Scheerhoom
Téléphone: 0703491211

Vos réf: I 1281232
Dossier: Apple Inc., California corporation (D 1325600, D 1325603, Marque notoire ONE MORE THING) vs
SWATCH AG (SWATCH SA)(SWATCH LTD.) (I 1281232)

Concerne : Avis de refus provisoire consécutif à une opposition
Refus total provisoire

Madame, Monsieur,

Par la présente, nous vous faisons parvenir un avis de refus total provisoire d'un enregistrement international, consécutif à une procédure d'opposition. Nous vous remercions de l'adresser dans les meilleurs délais au titulaire de l'enregistrement concerné ou, le cas échéant, à son mandataire. Les coordonnées requises par votre Bureau, conformément à la règle 18ter(3) du règlement d'exécution commun, sont les suivantes :

I Numéro de l'enregistrement international :

I 1281232

II Nom et adresse du titulaire de l'enregistrement international :

SWATCH AG (SWATCH SA)(SWATCH LTD.)
Jakob-Stämpfli-Strasse 94
CH-2502 Biel/Bienne
Suisse

Pays-Bas:
ABN AMRO
IBAN NL68 ABNA 0240 0367 00
BIC: ABNA NL2A

Belgique:
BNP Paribas Fortis
IBAN BE24 0014 3183 0538
BIC: GEBA BEBB

Luxembourg:
BGL BNP Paribas
IBAN LU50 0030 0556 7430 0000
BIC: BGLL LULL

III Motif de refus :

Le 29 février 2016, une opposition a été introduite contre l'enregistrement international susmentionné. L'opposition est recevable. Vous trouverez en annexe un document comprenant les données relatives à cette opposition. Dispositions légales : article 2.18 de la Convention Benelux en matière de propriété intellectuelle. Les articles 2.14 et 2.16 sont applicables (voir notre site internet).

IV Coordonnées de la marque sur laquelle l'opposition est basée (voir copie en annexe) :

no. d'enregistrement : D 1325600, D 1325603, Marque notoire ONE MORE THING

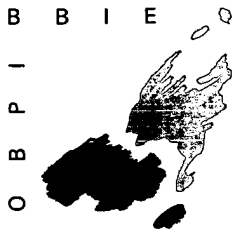
date de dépôt : voir annexe

marque : voir annexe

titulaire de la marque : voir annexe

liste des produits et/ou services sur lesquels l'opposition est fondée :

A handwritten signature or mark consisting of several overlapping loops and a horizontal line extending to the right.

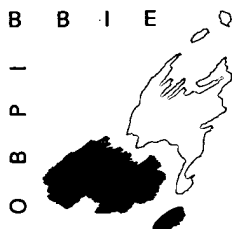


D 1325600 : CI 35 Business management; business administration; business consulting services; providing office functions; advertising agency services; advertising, marketing, and promotion services; advertising and marketing consultation; sales promotion services; promoting the goods and services of 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; creating indexes of information, sites and other resources available on global computer networks and other electronic and communications networks for others; providing, 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 business, consumer, 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; 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, provided 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, provided 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; providing downloadable pre-recorded text, data, image, audio, video, and multimedia content for a fee or pre-paid subscription, 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.

CI 41 Educational services; arranging, organizing, conducting, and presenting seminars, workshops, classes, webinars, conferences, online instruction, and distance learning programs; arranging, organizing, conducting, and presenting concerts, live performances, entertainment special events, arts and cultural events, theatrical entertainment, competitions, contests, fairs, festivals, exhibitions, expositions, and sporting events; production, distribution, and presentation of radio programs, television programs, motion pictures, sound recordings; providing ongoing television, radio, audio, video, podcast, and webcast program; providing entertainment, sports, music, informational, news, and current events programming by means of

telecommunications networks, computer networks, the Internet, satellite, radio, wireless communications networks, television, and cable television; providing non-downloadable entertainment, sports, music, informational, news, and current events programming; providing websites and computer applications featuring entertainment, sports, music, informational, news, current events, and arts and culture programming; providing websites and computer applications featuring information in the field of entertainment, music, sports, news, and arts and culture; providing non-downloadable computer games, electronic games, interactive games, and video games; providing information, schedules, reviews and personalized recommendations of educational programs, entertainment, motion pictures, theatre, arts and cultural events, concerts, live performances, competitions, fairs, festivals, exhibitions, expositions, and sporting events; ticket reservation and booking services for educational programs, entertainment, motion pictures, theatre, arts and cultural events, concerts, live performances, competitions, fairs, festivals, exhibitions, expositions, and sporting events; publication and presentation of reviews, surveys, and ratings, and providing interactive websites and computer applications for the posting and sharing of reviews, survey, and ratings relating to educational programs, entertainment, motion pictures, theatre, arts and cultural events, concerts, live performances, competitions, fairs, festivals, exhibitions, expositions, and sporting events; providing non-downloadable ringtones, pre-recorded music, video, and graphics for use on mobile communications devices; providing a website for the uploading, storing, sharing, viewing and posting of images, audio, videos, online journals, blogs, podcasts, and multimedia content; publication of books, periodicals, newspapers, newsletters, manuals, blogs, journals, and other publications; providing websites and computer applications featuring books, periodicals, newspapers, newsletters, manuals, blogs, journals, and other publications; news reporting; electronic and online library services; providing non-downloadable computer software for use in connection with fitness and exercise; providing websites and computer applications featuring information in the field of fitness and exercise; digital imaging services; creation of visual effects and graphics for others.

D 1325603 : CI 9 Computers; computer peripherals; computer hardware; hand held computers; tablet computers; laptop computers; handheld digital electronic devices capable of providing access to the Internet and for the sending, receiving, and storing of telephone calls, electronic mail, and other digital data; wearable computer peripherals; wearable computer hardware; peripherals for mobile devices; wearable digital electronic devices capable of providing access to the internet, for sending, receiving and storing of telephone calls, electronic mail, and other digital data; computer cables, monitors and display screens, keyboards, mice and mouse pads, styluses, printers, and disk drives and hard drives; sound recording and reproducing apparatus; digital audio and video players and recorders; motor vehicle audio apparatus; voice recording and voice recognition apparatus; radios, radio transmitters, and receivers; earphones, headphones; audio speakers; microphones; audio components and accessories; network communication apparatus; electronic communication equipment and instruments; telecommunications apparatus and instruments; telephones; mobile phones; wireless communication devices for voice, data or image transmission; cables; apparatus and media for data storage; computer chips; optical apparatus and instruments; cameras; batteries; digital audio and video players and recorders; televisions; television receivers; television monitors; set top boxes;



global positioning system (GPS) devices; navigational instruments and devices; computer software; computer software for use in connection with hand held computers and tablet computers; computer software for setting up, configuring, operating and controlling mobile devices, wearable devices, mobile phones, computers, and computer peripherals; computer software for creating, authoring, distributing, downloading, transmitting, receiving, playing, editing, extracting, encoding, decoding, displaying, storing and organizing text, data, graphics, images, audio, video, and multimedia content, electronic publications, and electronic games; computer software for accessing, monitoring, searching, displaying, reading, recommending, sharing, organizing, and annotating news, sports, weather, commentary, and other information, content from periodicals, blogs, and websites, and other text, data, graphics, images, audio, video, and multimedia content; computer software for use in recording, organizing, transmitting, manipulating, and reviewing text, data, graphics, images, audio, video, and multimedia content; computer software to enable users to program and distribute text, data, graphics, images, audio, video, and multimedia content, via global communication networks and other computer, electronic and communications networks; electronic publication reader software; computer software used in connection with publishing, content management, news reporting and aggregation, online advertising, advertising campaign management, and market research; computer software used to monitor readership of online content, user engagement, advertising exposure, and consumer response; remote control apparatus; electrical and electronic connectors, couplers, wires, cables, chargers, docks, docking stations, interfaces, and adapters for use with all of the aforesaid goods; covers, bags, cases, and stands adapted or shaped to contain computers, computer peripherals, computer hardware, hand held computers, tablet computers, laptop computers, mobile phones, and wearable computer peripherals; electronic agendas; apparatus to check stamping mail; cash registers; mechanisms for coin-operated apparatus; dictating machines; hemline markers; voting machines; electronic tags for goods; prize selection machines; facsimile machines; weighing apparatus and instruments; measures; electronic notice boards; measuring apparatus; wafers [silicon slices]; integrated circuits; amplifiers; fluorescent screens; lights conducting filaments [optical fibers]; electric installations for the remote control of industrial operations; lightning arresters; electrolyzers; fire extinguishers; radiological apparatus for industrial purposes; life saving apparatus and equipment; whistle alarms; sunglasses; animated cartoons; egg-candlers; dog whistles; decorative magnets; electrified fences; portable remote-controlled car retarders; electrically heated socks.

CI 14 Horological and chronometric instruments; watches; clocks; timepieces; chronographs for use as timepieces; chronometers; watchstraps; watch bands; cases for watches, clocks, and horological and chronometric instruments; parts for watches, clocks, and horological and chronometric instruments; jewelry.

Marque notoire ONE MORE THING

V *Produits et/ou services qui pourraient être affectés par l'opposition :*

I 1281232 : tous les produits / services protégés par l'enregistrement

VI Recevabilité provisoire pour une partie des droits invoqués :

Pas d'application

VII Début de la Procédure :

La marque contre laquelle l'opposition est dirigée fait l'objet d'un refus pour motifs absolus. Dès lors, la procédure d'opposition est suspendue d'office pour la durée de la procédure de refus. La période dite de "cooling-off" de deux mois commencera à l'issue de cette procédure de refus. Le moment venu, le défendeur recevra un avis l'informant du début du "cooling-off".

Les dépôts suivants ne sont pas encore enregistrés : D 1325600, D 1325603. Dès lors, la procédure d'opposition est suspendue d'office jusqu'à la fin de la procédure d'enregistrement. La période dite de "cooling-off" de deux mois commencera à l'issue de cette procédure d'enregistrement. Le moment venu, le défendeur recevra un avis l'informant du début du "cooling-off".

VIII Irrégularités :

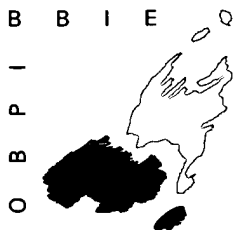
Un mandataire doit avoir un domicile ou un siège dans l'Union européenne ou l'Espace économique européen. C'est pourquoi nous prions le défendeur de nous communiquer au plus tard le 07 mai 2016 une adresse (de correspondance) sur l'un de ces territoires (attention ce délai ne peut pas être prolongé). A défaut de régularisation dans ce délai le défendeur sera censé avoir renoncé aux droits sur l'enregistrement. Dans ce cas, la procédure sera clôturée et l'enregistrement sera refusé définitivement au Benelux pour tous les produits et/ou services contre lesquels l'opposition est dirigée.

IX Explication concernant la langue de la procédure :

L'opposant a indiqué qu'il préfère l'anglais comme langue de la procédure. Etant donné qu'il s'agit d'une marque internationale, la langue de la procédure est la langue de l'Office Benelux (français, néerlandais ou anglais) choisie par le défendeur dans un délai d'un mois à partir de la présente notification soit au plus tard, le 07 avril 2016. A défaut de choix, la langue de la procédure sera l'anglais. Le défendeur peut modifier les choix linguistiques, en accord avec la partie adverse, jusqu'au début de la procédure.

X Oppositions multiples :

Pas d'application



Date
07 mars 2016

Page
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Toute correspondance dans la procédure d'opposition doit être adressée à l'Office Benelux de la Propriété Intellectuelle.

Nous espérons que ces informations vous ont été utiles et vous prions d'agréer, Madame, Monsieur, l'expression de notre considération distinguée.

Karin Winkel
Chef Enregistrement



OPPOSITION
numéro: 2011736
date d'introduction: 29/02/2016
(JE)

Coordonnées de l'opposant et du (des) droit(s) invoqué(s)

OPPOSANT

Apple Inc., California corporation
1 Infinite Loop
Cupertino, California 95014,
Etats-Unis d'Amérique

MANDATAIRE

Van Doorne N.V.
Jachthavenweg 121
1081 KM Amsterdam,
Pays-Bas

Droit invoqué 1

Marque: ONE MORE THING

Numéro d'enregistrement: D 1325600

Date du dépôt: 27/07/2015

Date d'enregistrement: Aucune date d'enregistrement n'a été fixée pour cette marque.

Classes: 35 41

Classes sur lesquelles l'opposition est basée:

tous les produits / services protégés par l'enregistrement

Droit invoqué 2

Marque: ONE MORE THING

Numéro d'enregistrement: D 1325603

Date du dépôt: 27/07/2015

Date d'enregistrement: Aucune date d'enregistrement n'a été fixée pour cette marque.

Classes: 09 14

Classes sur lesquelles l'opposition est basée:

tous les produits / services protégés par l'enregistrement

Droit invoqué 3

Marque notoire (article 6bis de la Convention de Paris): ONE MORE THING

OPPOSITION
numéro: 2011736
date d'introduction: 29/02/2016
(JE)
(suite)

Coordonnées du défendeur

DEFENDEUR

SWATCH AG (SWATCH SA)(SWATCH LTD.)
Jakob-Stämpfli-Strasse 94
CH-2502 Biel/Bienne
Suisse

MANDATAIRE

The Swatch Group SA (The Swatch Group AG)
6, Faubourg du Lac
CH-2501 Biel/Bienne
Suisse

MARQUE

ONE MORE THING

Numéro: I 1281232

Date du dépôt: 24/11/2015

Date de publication: 31/12/2015

Classes: 09 14

Classes contre lesquelles l'opposition est dirigée:

tous les produits / services protégés par l'enregistrement

L' opposition est recevable