



Press and Information

General Court of the European Union
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Judgment in Case T-893/16
Xiaomi, Inc. v European Union Intellectual Property Office (EUIPO)

Apple succeeds in preventing the registration of ‘MI PAD’ as an EU trade mark in respect of electronic devices and (tele)communication services

In 2014, the Chinese company Xiaomi, a company specialising in electronics and mobile telephony, filed an application with the European Union Intellectual Property Office (EUIPO) for registration of the word sign ‘MI PAD’ as an EU trade mark in respect of electronic devices and (tele)communication services. The company Apple filed a notice of opposition to the registration of that sign, invoking its earlier trade mark IPAD registered in respect of identical or similar goods and services.

In 2016, EUIPO upheld Apple’s opposition: having found that there was a significant degree of similarity between the signs at issue, EUIPO concluded that the differences between the two signs were not sufficient to rule out the existence of a likelihood of confusion and that the relevant public would think that the trade mark MI PAD was a variation on the trade mark IPAD.

Being dissatisfied with EUIPO’s decision, Xiaomi brought an action before the General Court seeking annulment of that decision.

By today’s judgment, the General Court dismisses Xiaomi’s action and confirms that the sign MI PAD is not to be registered as an EU trade mark.

Regarding the comparison of the two signs, the General Court confirms EUIPO’s findings: visually, the signs at issue display a high degree of similarity owing to the fact that IPAD is entirely reproduced in MI PAD, that the two signs coincide as to the letter sequence ‘ipad’ and that they differ only as to the presence of the additional letter ‘m’ at the beginning of MI PAD. Phonetically, the signs at issue display an average degree of similarity for the English-speaking part of the relevant public (indeed, it is likely that this part of the relevant public will perceive the prefix ‘mi’ as referring to the English possessive pronoun ‘my’ and will thus pronounce the letter ‘i’ of MI PAD and IPAD in the same way), and a high degree of similarity for the non-English-speaking part (this part of the public will tend to pronounce the ‘i’ in the same way in both marks). Lastly, conceptually, the signs at issue display an average degree of similarity for the English-speaking part of the relevant public (the common element ‘pad’ will be understood as meaning tablet computer, while the elements ‘mi’ and ‘i’ will be perceived as prefixes qualifying the common element ‘pad’, without significantly altering its conceptual meaning), and a neutral degree of similarity for the non-English-speaking part (since the common element ‘pad’ has no meaning for this part of the public, the signs at issue, taken as a whole, are devoid of any particular conceptual meaning).

The General Court also confirms that, on the basis of the comparison thus made and in view of the identity or similarity of the goods and services covered by the two signs, EUIPO was correct to conclude that there was a likelihood of confusion on the part of the public. The General Court thus considers, as EUIPO did, that, first, the dissimilarity between the signs at issue, resulting from the presence of the additional letter ‘m’ at the beginning of MI PAD, is not sufficient to offset the high degree of visual and phonetic similarity between the two signs, and, second, the relevant public will believe that the goods and services in question come from the same undertaking (or from

economically-linked undertakings) and will think that the mark applied for MI PAD is a variation on the earlier trade mark IPAD.

For all these reasons, the General Court confirms EUIPO's decision.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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