

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

INTER-CONTINENTAL HOTELS)
CORPORATION,)
)
Opposer,)
)
v.)
)
SHANGHAI MINQIANG INVESTMENT)
(GROUP) COMPANY LIMITED,)
)
Applicant.)
_____)

Opposition No. _____



(App. Serial No. 85782009)

NOTICE OF OPPOSITION

Opposer Inter-Continental Hotels Corporation, a State of Delaware corporation with a principal place of business at Three Ravinia Drive, Suite 100, Atlanta, Georgia 30346, will be damaged by registration of the mark set forth in Application Serial No. 85782009 (the “Application”), owned by Applicant Shanghai Minqiang Investment (Group) Company Limited (“Applicant”), and states the following for its opposition to that Application:

Facts Relevant to All Claims

1. Inter-Continental Hotels Corporation is the owner of the extremely well-known INTERCONTINENTAL mark and its associated logo mark, depicted below:



2. Inter-Continental Hotels Corporation and its predecessors in interest, affiliated entities, and licensees (collectively, “IHG”) have used, and continue to use, the logo mark

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depicted above, either standing alone or in combination with other words and/or design elements (the “I Logo Mark”) since at least as early as 1966 in connection with restaurant, bar, concierge, and other related hospitality services and at least as early as 1995 in connection with hotel and resort services, and since long prior to the Application’s claimed February 21, 2011 date of first use in commerce and the Application’s November 17, 2012 filing date.

3. Currently, IHG owns, operates, and franchises nearly 200 award-winning hotels and resorts in over 60 countries worldwide under the INTERCONTINENTAL brand and the I Logo Mark.

4. As a result of IHG’s long and continuous use of its I Logo Mark in connection with its hotel, resort, and other hospitality-related services, and as a result of IHG’s extensive advertising and promotion of services under its I Logo Mark, the consuming public and the trade have come to recognize the I Logo Mark as belonging to IHG, and associate and identify the services offered under the I Logo Mark with IHG. IHG consequently derives invaluable goodwill and value from this recognition, association, and identification by the consuming public and the trade.

5. In addition to its strong common law rights in the I Logo Mark, IHG is the owner of several registrations that consist of or incorporate the I Logo Mark, including the following:

Trademark	Reg. No.	Reg. Date	Goods and/or Services	First Use in Commerce
	1736949	12/01/1992	<p><u>Class 35:</u> stenographic and typing services; conference center services; namely, arranging and planning meetings for others; management and staffing of hotels, restaurants and conference centers for others; and business management consulting services rendered to hotels, restaurants and conference centers</p> <p><u>Class 39:</u> travel agency services; development and organization of travel and tour packages for hotel guests; limousine transportation services; parking garage services</p> <p><u>Class 41:</u> entertainment services; namely, sponsoring musical performances, and providing in-room movies to hotel guests; health club services</p> <p><u>Class 42:</u> restaurant, bar and cocktail lounge services; concierge services; planning and designing conference center, hotels and meeting facilities for others and consultation services in the construction, operation and management of hotels, restaurant and conference centers</p>	04/04/1966
	2005852	10/08/1996	<p><u>Class 39:</u> arranging travel tours for hotel guests</p> <p><u>Class 41:</u> health and fitness club services</p> <p><u>Class 42:</u> hotel, restaurant, bar and cocktail lounge services, concierge services; planning and designing conference centers, hotels and meeting facilities for others; making hotel reservations for others</p>	02/1995

Trademark	Reg. No.	Reg. Date	Goods and/or Services	First Use in Commerce
	3455406	06/24/2008	<p><u>Class 41:</u> Health club services, namely, providing swimming pools, and cardio and weight training equipment for physical exercise</p> <p><u>Class 44:</u> Health spa services, namely, cosmetic body care services; Providing whirlpool bath facilities; Operation of men's and women's steam and sauna rooms, individual and couple's spa service treatment rooms, restorative massage, facial and hydrotherapy body treatments</p>	08/2005
	4195368	08/21/2012	<u>Class 43:</u> hotel services; resort hotels	03/30/2011
	4321410	04/16/2013	<u>Class 43:</u> hotel services; resort hotels	11/01/2012

(collectively, the “I Logo Mark Registrations”). The I Logo Mark Registrations are valid and subsisting, and the registrations for which affidavits have been filed in accordance with Sections 8 and 15 of the Lanham Act, 15 U.S.C. §§ 1058 and 1065, are incontestable.

6. Because of the high degree of inherent and acquired distinctiveness of the I Logo Mark, the length of time and extent to which IHG has used the I Logo Mark, the advertising and publicity the I Logo Mark has received, the substantial trading area in which the I Logo Mark is used, and the high degree of consumer recognition of the I Logo Mark, the I Logo Mark is a well-known and strong trademark, deserving of a broad scope of legal protection.

7. On November 17, 2012, Applicant filed a use-based application to register the Y design mark depicted below (the “Y Design Mark”) for “Bar services; Boarding for horses; Booking of catering services for others; Cafe services; Cafeteria services; Canteen services; Catering services; Hotel accommodation services; Hotel services; Mobile cafe services for providing food and drink; Rental of rooms for social functions; Restaurant and catering services; Restaurant services” in Class 43 (Serial No. 85782009) (the “Application”):



8. The Application claims November 27, 2009 as Applicant’s date of first use and February 21, 2011 as Applicant’s date of first use in commerce of the Y Design Mark.

9. Applicant submitted the specimen of use attached as **Exhibit 1** (the “Specimen”) in connection with the Application.

Ground I
Likelihood of Confusion

10. IHG incorporates by reference the allegations contained in Paragraphs 1-9 as if fully set forth herein.

11. Because of the high degree of inherent and acquired distinctiveness of the I Logo Mark, the length of time and extent to which IHG has used the I Logo Mark in connection with hotel, resort, and other hospitality-related services, the advertising and publicity the I Logo Mark has received, the substantial trading area in which the I Logo Mark

is used, and the high degree of consumer recognition of the I Logo Mark, the I Logo Mark is a well-known and strong trademark, deserving of a broad scope of legal protection.

12. The services recited in the Application are identical, overlapping, and/or closely related to the services that IHG currently provides in intrastate and interstate commerce in connection with its I Logo Mark.

13. The services recited in the Application are identical, overlapping, and/or closely related to the services that IHG provided for years prior to any actual or constructive use date of Applicant's Y Design Mark.

14. Applicant's Y Design Mark is very similar in sight, appearance, and commercial impression to the I Logo Mark, as demonstrated by a side-by-side comparison of the marks:



IHG's I Logo Mark



Applicant's Y Design Mark

15. Applicant had constructive knowledge of IHG's I Logo Mark prior to adopting Applicant's Y Design Mark.

16. On information and belief, Applicant had actual knowledge of IHG's I Logo Mark prior to adopting Applicant's Y Design Mark.

17. Applicant had constructive knowledge of IHG's I Logo Mark prior to commencing use of Applicant's Y Design Mark in interstate commerce.

18. On information and belief, Applicant had actual knowledge of IHG's I Logo Mark prior to commencing use of Applicant's Y Design Mark in interstate commerce.

19. Applicant had constructive knowledge of IHG's I Logo Mark prior to filing the Application.

20. On information and belief, Applicant had actual knowledge of IHG's I Logo Mark prior to filing the Application.

21. IHG will be damaged by registration of Applicant's Y Design Mark because the mark so resembles IHG's I Logo Mark as to be likely to cause confusion, mistake, and deception.

22. Persons familiar with the I Logo Mark and the services offered under the I Logo Mark would be likely to believe erroneously that Applicant's services are the services of IHG or are authorized, endorsed, sponsored, or licensed by IHG.

23. Thus, registration of Applicant's Y Design Mark on the Principal Register would be inconsistent with IHG's strong prior rights in its I Logo Mark under 15 U.S.C. §§ 1052(d) and 1063.

Ground II
Lack of Use in Commerce for the Recited Services

24. IHG incorporates by reference the allegations contained in Paragraphs 1-23 as if fully set forth herein.

25. On information and belief, as of February 21, 2011, Applicant had not rendered one or more of the services recited in the Application in any state in the United States under the Y Design Mark.

26. On information and belief, as of February 21, 2011, Applicant had not rendered one or more of the services recited in the Application in U.S. interstate commerce under the Y Design Mark.

27. On information and belief, prior to November 17, 2012, Applicant had not rendered one or more of the services recited in the Application in any state in the United States under the Y Design Mark.

28. On information and belief, prior to November 17, 2012, Applicant had not rendered one or more of the services recited in the Application in U.S. interstate commerce under the Y Design Mark.

29. On information and belief, at the time Applicant filed its Application (November 17, 2012), Applicant was not rendering, and had not previously rendered, one or more of the services recited in the Application in any state in the United States under the Y Design Mark.

30. On information and belief, at the time Applicant filed its Application (November 17, 2012), Applicant was not rendering, and had not previously rendered, one or more of the services recited in the Application in U.S. interstate commerce under the Y Design Mark.

31. On information and belief, as of the filing date of this Notice of Opposition, Applicant is not rendering one or more of the services recited in the Application in any state in the United States under the Y Design Mark.

32. On information and belief, as of the filing date of this Notice of Opposition, Applicant is not rendering one or more of the services recited in the Application in U.S. interstate commerce under the Y Design Mark.

33. Applicant's Application is void *ab initio* because Applicant was not using the Y Design Mark in U.S. interstate commerce in connection with the services recited in the Application, namely, "Bar services; Boarding for horses; Booking of catering services for others; Cafe services; Cafeteria services; Canteen services; Catering services; Hotel accommodation services; Hotel services; Mobile cafe services for providing food and drink; Rental of rooms for social functions; Restaurant and catering services; Restaurant services," as of the filing date of the Application, as required by the Lanham Act, 15 U.S.C. § 1051.

34. The Application therefore is void in its entirety.

35. If Applicant's Y Design Mark Application matures into a registration, IHG will be damaged.

Ground III
Abandonment

36. IHG incorporates by reference the allegations contained in Paragraphs 1-35 as if fully set forth herein.

37. Alternatively, on information and belief, to the extent Applicant may have ever used the Y Design Mark in U.S. interstate commerce in connection with one or more of the services recited in the Application, Applicant has discontinued its use of the Y Design Mark in connection with the recited services.

38. On information and belief, Applicant has not used the Y Design Mark in connection with one or more of the services recited in the Application in any state within the United States or in U.S. interstate commerce for at least the past three years.

39. On information and belief, to the extent Applicant may have ever used the Y Design Mark in U.S. interstate commerce in connection with one or more of the services

recited in the Application, Applicant has no evidence of an intent to resume its use of the Y Design Mark in U.S. interstate commerce in connection with these services.

40. Accordingly, the Application should be denied in its entirety.

41. If Applicant's Y Design Mark Application matures into a registration, IHG will be damaged.

Conclusion

For each of the foregoing reasons, IHG requests that the Board sustain this proceeding in IHG's favor by refusing registration to the mark underlying Application Serial No. 85782009.

The required \$300.00 opposition fee is being submitted electronically with this Notice of Opposition. The Director is authorized to debit Kilpatrick Townsend & Stockton LLP's Trademark Deposit Account No. 20-1430 for any deficiency in the required fee.

This 19th day of March, 2014.

Respectfully submitted,



Tywanda Harris Lord
Sabina A. Vayner
Kilpatrick Townsend & Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309-4528
Telephone: (404) 815-6500
Facsimile: (404) 815-6555

Attorneys for Opposer
Inter-Continental Hotels Corporation

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TM:



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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing **Notice of Opposition** was served on Applicant and Applicant's correspondence contact of record on March 19, 2014 via international first-class mail, addressed to:

SNDRE
P.O. Box 100045-28
Beijing 100045
China

Shanghai Minqiang Investment (Group) Company Ltd.
Room 306, No. 1 Hexiang Road
Qing Pu District
Shanghai
China

Additionally, pursuant to Trademark Board Manual of Procedure § 114.07 and 37 C.F.R. § 2.24(a)(2), because Applicant has not filed any documents designating the name and address of a person residing in the United States on whom notices or process in proceedings affecting the mark may be served (domestic representative), this is to certify that a true and correct copy of the foregoing **Notice of Opposition** also was served on the Director of the U.S. Patent and Trademark Office via first-class mail addressed to:

Director, U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sabina A. Vayner
Attorney for Opposer

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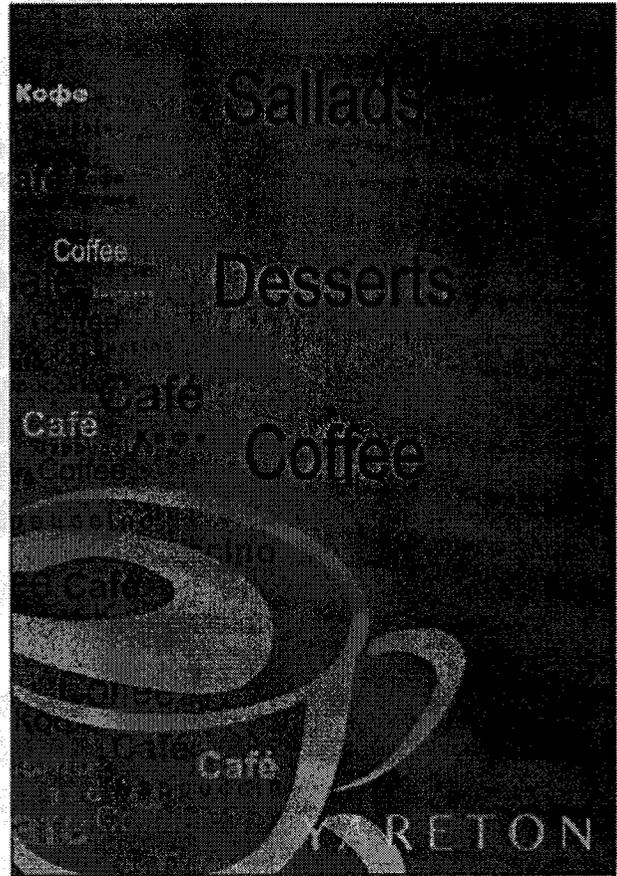
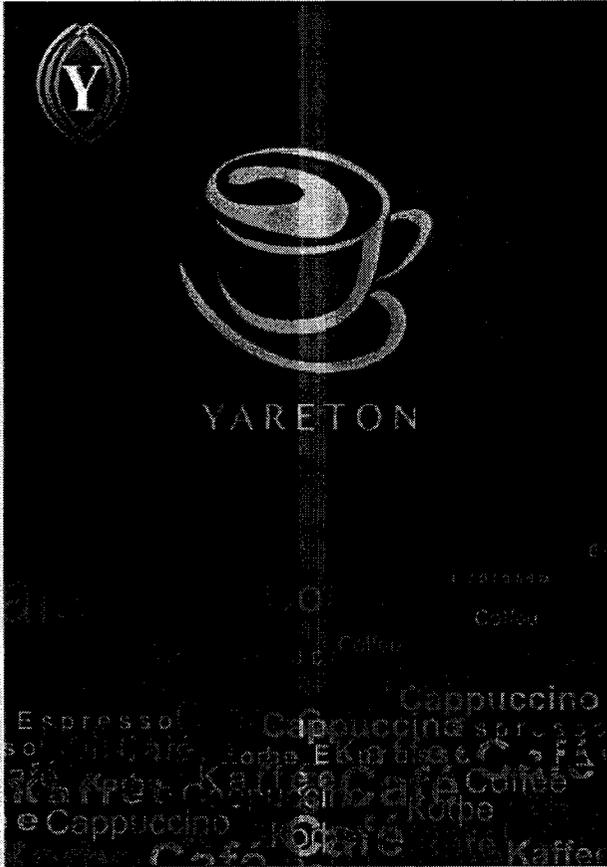
CERTIFICATE OF TRANSMITTAL

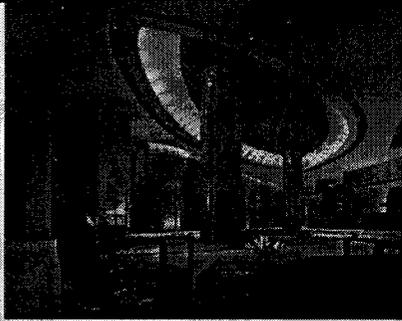
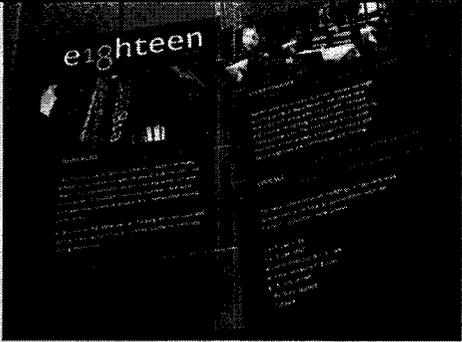
This is to certify that a true and correct copy of the foregoing **Notice of Opposition** is being filed electronically with the TTAB via ESTTA on this day, March 19, 2014.



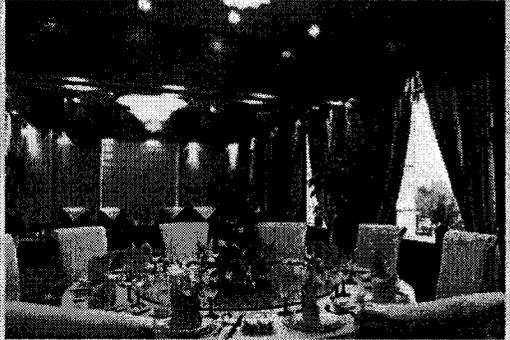
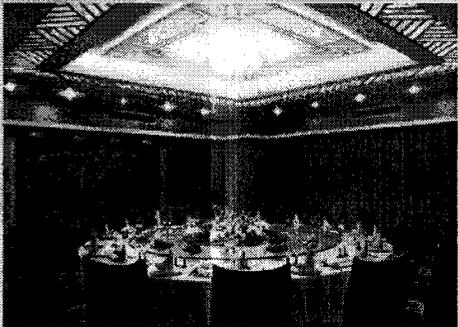
Sabina A. Vayner
Attorney for Opposer

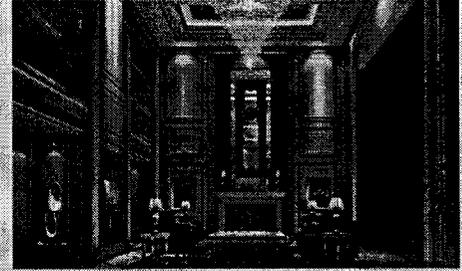
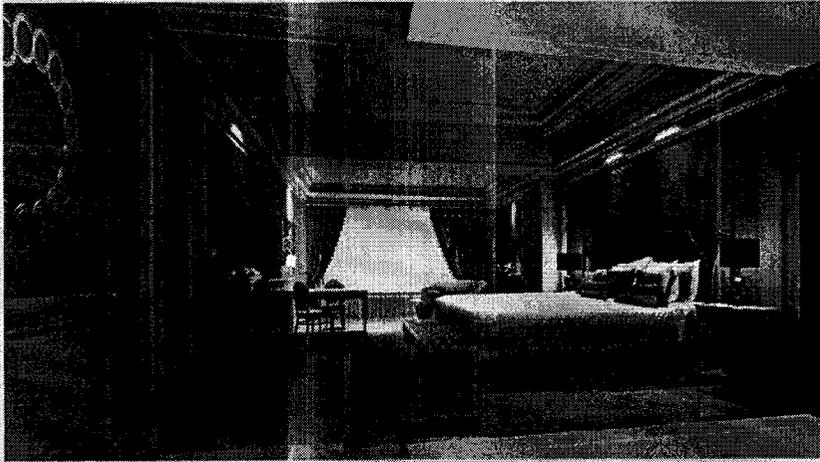
EXHIBIT 1






YARETON





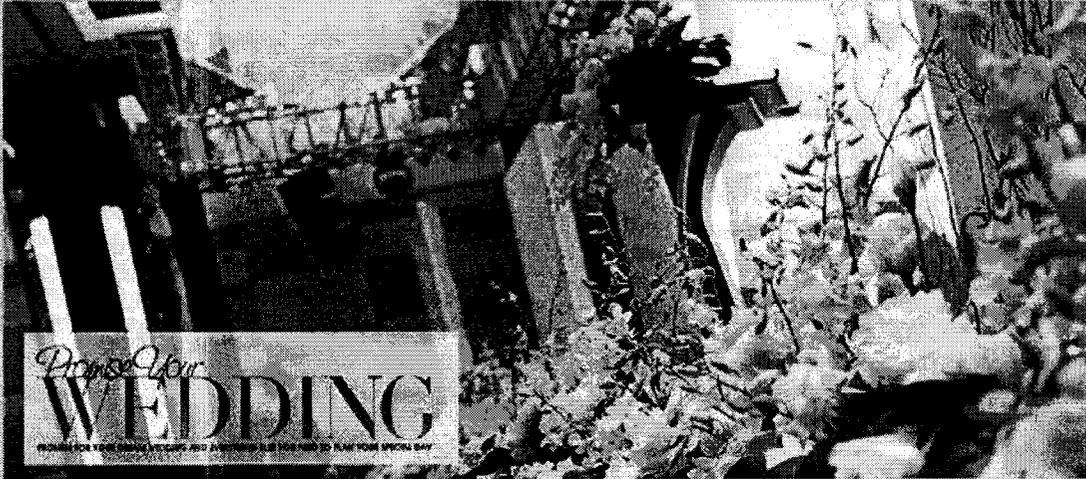
YARETON
Disturbance to the comfort luxury

YARETON
Noble elegant European style room with a room intelligent control system, electronic door lock system, wide-screen TV and powerful shower facilities we are committed to provide you with the perfect accommodation space and your gentleman-like services, suitable and outstanding of elegance.





YARETON



Promise Your
WEDDING
PROVIDE FOR YOUR BRIDE, GROOM, AND EVERYONE ELSE YOU CARE TO KISS YOUR SPECIAL DAY



婚礼知识 WEDDING KNOWLEDGE

more

推荐4款寓意非凡的新娘手捧花

2012-11-16

广东婚庆公司-新禧婚礼策划：新娘的手捧花是婚礼上的一道亮丽的风景线，它是甜蜜幸福的象征，是爱情永恒的象征。今天小编为大家推荐4款寓意非凡的新娘手捧花。

- 怎样的手捧花会捧到你们的爱情? 2012-11-16
- 婚礼婚礼注意事项大公开 2012-11-06
- 孕妈们新娘举办婚礼注意事项 2012-10-30
- 常见的寓意深远的婚礼方法 2012-10-27



联系我们

上海民强投资（集团）有限公司

Shanghai Mingqiang Investment (Group) Company Limited