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Filing date: **03/02/2016**

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

Proceeding	91225717
Party	Defendant The Third Stone Co. Ltd (Beijing)
Correspondence Address	DYAN M HOUSE CARTER SCHOLER ARNETT HAMADA ET AL 8150 N CENTRAL EXPY SUITE 500 DALLAS T, TX 75206 UNITED STATES
Submission	Motion to Suspend for Civil Action
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Date	03/02/2016
Attachments	Motion to Suspend (THIR01-00004).pdf(1094006 bytes)

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

EBAY, INC.	§	
	§	
Opposer,	§	Opposition No. 91225717
	§	
v.	§	
	§	
THE THIRD STONE CO. LTD.	§	
	§	
Applicant.	§	

**MOTION TO SUSPEND PROCEEDINGS FOR CIVIL ACTION
PURSUANT TO TRADEMARK RULE 2.117(a)**

Applicant The Third Stone Co. Ltd. (“Third Stone”), by its attorneys Carter Scholer Arnett Hamada & Mockler, PLLC, moves for suspension of these proceedings pursuant to Trademark Rule 2.117(a), 37 C.F.R. §2.117(a).

On February 25, 2016, Third Stone filed a complaint in the United States District Court for the Northern District of Texas against opposer eBay, Inc. and two of its affiliates, eBay International AG and Marktplaats, BV, for trademark infringement. In support of this motion, Third Stone submits herewith a copy of the Original Complaint, attached as Exhibit A.

In the Original Complaint, Third Stone asserts, among other things, that it is the senior user of the trademark 5MILES, which is the trademark that is the subject of these proceedings. Third Stone also alleges that its trademark 5MILES is inherently distinctive and claims ownership of United States Trademark Registration No. 4,905,765 for 5MILES. Third Stone seeks to enforce its trademark rights, including its common law rights, in the 5MILES mark and app icon. Third

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion to Suspend Pending Civil Action has been served upon counsel for Opposer, James R. Cady, Hogan Lovells US LLP, 4085 Campbell Avenue, Suite 100, Menlo Park, CA 94025, by First-Class Mail, with a courtesy copy sent via e-mail, this 2nd day of March 2016.

/Dyan House/

Dyan M. House

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

THE THIRD STONE CO. LTD.,

Plaintiff,

v.

**EBAY INTERNATIONAL AG,
EBAY, INC., AND MARKTPLAATS
BV**

Defendants.

§
§
§
§
§
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§
§
§
§

Case No. 3:16-cv-0517

PLAINTIFF’S ORIGINAL COMPLAINT

The Third Stone Co. Ltd. (“Third Stone”) files this Original Complaint, and in support thereof respectfully states as follows:

I. PARTIES

1. Third Stone is a limited liability company duly organized under the laws of China, with a principal address at Wangjing Soho 1B, Wangjing Chaoyang, Beijing, 100102 China.

2. Defendant eBay, Inc. is a Delaware corporation, with a principal address of 2065 Hamilton Avenue, San Jose, California 95125. Process may be served on its registered agent for service of process in Texas at CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas 75201-3136.

3. Defendant eBay International AG is a corporation organized under the laws of Switzerland with a principal address of 22-24 Boulevard Royal, Luxembourg, Grand Duchy of Luxembourg 2449. eBay International may be served with process

under the Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (“the Hague Convention”), or, if necessary, any other method provided for in Federal Rule of Civil Procedure 4(f).

4. Defendant Marktplaats BV is a Netherlands company and may be served with process under the Hague Convention, by forwarding triplicate originals of process with this Complaint to the Central Authority for Netherlands, De Officier van Justitie (Public Prosecutor at the District Court of The Hague), Postbus 20302, 2500 EH, The Hague, Netherlands for service upon Marktplaats.

II. JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338 and 15 U.S.C § 1121, as this action arises under United States trademark law, including the Lanham Act, codified at 15 U.S.C. § 1125(a). The Court may also maintain supplemental jurisdiction over Third Stone’s state law claims under 28 U.S.C. § 1367.

6. This Court has personal jurisdiction over Defendants because all of the Defendants conduct business in Texas.

7. Venue is proper pursuant to 28 U.S.C. §1391(b)(2) because Defendants are deemed to reside in this judicial district and a substantial part of the events giving rise to the claims herein occurred and continue to occur in this judicial district.

III. STATEMENT OF FACTS

8. In early 2014, Dr. Lu Liang, founder and Chief Executive Officer of Third Stone, had an idea to develop a mobile application for a location-based secondhand marketplace.

9. Dr. Liang and his team of e-commerce veterans went to work developing a mobile application that focused on connecting buyers and sellers in the same geographic area.

10. The application was named “5miles” to suggest the local aspect of the application.

11. In August 2014, the Third Stone launched its mobile application in the U.S., 5miles (the “5miles App”), making it available for download at that time through Google Play and soon after through the Apple App Store.

12. The 5miles App is offered under the trademark “5miles” through Third Stone’s wholly owned subsidiary 5miles, LLC, a Delaware limited liability company.

13. Third Stone applied to register the standard character trademark “5miles” with the United States Patent and Trademark Office (“USPTO”). The standard character mark is the subject of two separate trademark applications: Application Serial No. 86/294,339 filed May 29, 2014, and 86/476,006 filed on December 10, 2014. True and correct copies of the ’339 and ’006 applications are attached as Exhibits A and B, respectively.

14. Third Stone has also applied to register its stylized design mark for “5miles” with the USPTO. The stylized design mark is the subject of U.S. Application

Serial No. 86/476,016 filed on December 10, 2014. A true and correct copy of the '016 application is attached as Exhibit C.

15. On February 23, 2016, the USPTO issued United States Trademark Registration No. 4,905,765 ("765 Registration") for the 5miles standard character mark that is the subject of the '339 application. A true and correct copy of the '765 Registration is attached as Exhibit D.

16. The 5miles App has a distinctive icon ("5miles Icon") featuring a stylized number 5 in white on an orange background as shown below:



17. The 5miles standard character mark, the 5miles stylized design mark and the 5miles Icon collectively make up the "5miles Marks."

18. Third Stone registered the domain *5milesapp.com* on May 20, 2014.

19. Since at least as early as August 21, 2014, Third Stone has used the 5miles Marks in interstate commerce.

20. Third Stone has launched its 5miles App in several cities throughout the United States, including without limitation, Boston, Dallas, Houston, Miami, Los Angeles, Chicago, New York, and Philadelphia.

21. The 5miles App averages 30,000 downloads a day and, as of January 2016, has been downloaded approximately 5.6 million times and has hundreds of thousands of monthly active users across the U.S., the vast majority of which are based in Texas. In addition, since it launched in 2014, the 5Miles App has been used

to list goods and services with a value exceeding \$1 billion, and the gross merchandise value on the 5Miles App now exceeds \$100 million every month.

22. eBay acquired a mobile app named Rumgr in October 2014. Rumgr performed the same or similar functions to the 5miles App.

23. eBay registered or caused to be registered the domain name *close5.com* on July 2, 2014.

24. Upon information and belief, eBay rebranded the Rumgr app as “Close5.” eBay launched the Close5 app in San Diego in November 2014.

25. The Close5 app performs the same or similar functions to the 5miles App.

26. eBay’s Close5 app has an icon that prominently features a stylized number 5 in white on a red background. eBay’s mark “Close5,” the stylized design of the numeral 5, and the Close5 app icon are collectively referred to as the “Close5 Marks.”

27. The Close5 app icon is confusingly similar to the 5miles Icon as shown below:



5miles

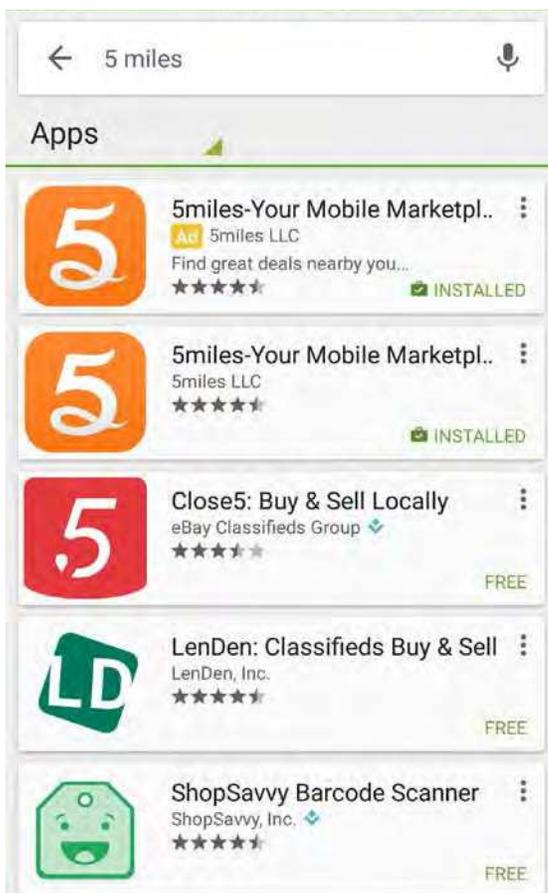


Close5

28. Third Stone and eBay offer similar goods and services under the 5miles Marks and Close5 Marks, respectively.

29. Third Stone and eBay target the same consumers for the goods and services offered under the 5miles Marks and Close5 Marks, respectively. The relevant consuming public is the general population who use mobile devices.

30. Consumers are likely to encounter the 5miles Marks and the Close5 Marks side-by-side or in close proximity to each other, as shown below:





May 26, 2015 - "5miles is the fun and easy way to buy and sell items and services with ... we've already contributed \$8 million USD to the local economy in ...

OfferUp - Buy, Sell, Simple.

<https://offerup.com/> • OfferUp is revolutionizing how we sell by making it a snap! Instantly connect with buyers and sellers ... buy and sell locally. How it Works. OfferUp for Android ...

Download 5miles: Local, Buy, Sell 3.2 Apk (6.33Mb), For ...

<https://www.apk4new.com/apk/101715miles-local-buy-sell/download> • Oct 16, 2015 - Download 5miles: Local, Buy, Sell 3.2 Apk file (6.33Mb) for Android with direct link. Free Shopping Application to download from APK4New ...

Buy and Sell locally with Closets

<https://www.closets.com/> • Closets provides a safe and easy environment to list your items and sell them fast. Shop, sell, home goods and children's items locally with Closets.

5miles - Shop & Sell (@5milesapp) | Twitter

<https://twitter.com/5milesapp?lang=en> • The latest Tweets from 5miles - Shop & Sell (@5milesapp). Sell what you've got, buy what you want. ... Buy and sell locally at 5miles. Download now!

5miles: Local, Buy, Sell - Mobile App Ranking in Google ...

www.similarweb.com/app/google-play/com.thirdrock._statistics • Get all of the info about 5miles: Local, Buy, Sell by 5miles LLC in the Google Play Store, such as ranking, downloads, and app analytics.

Download 5miles: Local, Buy, Sell APK for Laptop ...

http://apk4new.com/5miles-Sell-Buy-Closets_APK-for-Laptop.html • 5miles is an easy, safe, and fun way to discover great deals/deals in your area. Buy & sell your stuff, find a place to live, hire local services, or get a new job all ...

Download 5miles: Local, Buy, Sell (Android)

5miles-local-buy-sell.en.softonic.com/android/download • Buy, Sell free download, 100% safe and virus free download from Softonic. 5miles: Local, Buy, Sell free download, download 5miles: Local, Buy, Sell 3.4.1 for free

5miles - Local, Buy, Sell Download | ZDNet

downloads.zdnet.com/product/2649-76473109/ • Jan 13, 2016 - 5miles is an easy, safe, and fun way to discover great deals/deals in your area. Buy & sell your stuff, find a place to live, hire local ser.

5miles: Local, Buy, Sell 3.6.4 APK

apk4new.com • Apps | Shopping • 5miles: Local, Buy, Sell 3.6.4 APK Android, 5miles is an easy, safe, and fun way to discover great deals/deals in your area. Buy & sell your stuff.

31. Defendants have advertised and promoted the Close5 mobile application under the Close5 Marks, at times using the tagline “Everything within 5 miles” both in advertising and within its Close5 App. The combination of this tagline with the Close5 Marks so resembles the 5miles Marks that there have been instances of actual consumer confusion.

32. Third Stone’s rights in the 5miles Marks are senior to eBay’s rights in the Close5 Marks.

33. Third Stone first learned of Close5 in February 2015, when it noticed eBay’s trademark application pending before the USPTO. Third Stone filed a notice of opposition against the Close5 application with the USPTO’s Trademark Trial and Appeal Board on February 23, 2015. Shortly after the institution of the opposition, Third Stone and eBay entered into settlement discussions. eBay refused to comply with Third Stone’s demands despite Third Stone’s senior use of the 5miles Marks, and the settlement talks fell apart.

IV. CAUSES OF ACTION

COUNT I

TRADEMARK INFRINGEMENT UNDER 15 U.S.C. §1125

34. Third Stone incorporates by reference the allegations contained in Paragraphs 1 through 33 as if fully set forth herein.

35. This is an action for trademark infringement and arises under the trademark laws of the United States, namely Title 15 of the United States Code and more particularly, 15 U.S.C. §1125(a).

36. Third Stone is the owner of the ’765 Registration.

37. Third Stone's extensive use of the 5miles Mark that is the subject of the Registration in interstate commerce has substantial common law rights in the 5miles Mark.

38. Consumers of Third Stone's goods and services are, or likely will be, confused as to the source of the goods and services advertised and offered by Defendants under the Close5 mark.

39. Such confusion will substantially harm Third Stone's goodwill and damage Third Stone's significant investment of time and resources into creating the 5miles Mark and the goodwill that now surrounds it.

40. Defendants are and have been aware of the 5miles App and the 5miles Marks, including prior to the launch of the Close5 App.

41. Defendants' actions constitute willful infringement of Third Stone's rights in the 5miles Marks.

42. Third Stone therefore seeks preliminary and permanent injunctive relief to enjoin eBay's threatened and unauthorized use of the Close5 trademarks that are confusingly similar to the 5miles Mark. Third Stone also seeks preliminary and permanent injunctive relief to enjoin eBay from taking any action with Google or Apple that may affect the continuing and uninterrupted availability of Third Stone's 5Miles App on their respective mobile app platforms.

COUNT II
COMMON LAW TRADEMARK INFRINGEMENT

43. Third Stone incorporates by reference the allegations contained in Paragraphs 1 through 42 as if fully set forth herein.

44. Third Stone uses and has continuously used the 5miles Marks while marketing its mobile application throughout Texas and the United States.

45. Third Stone's extensive use of the 5miles Marks in interstate commerce has substantial common law rights in the 5miles Marks.

46. Consumers of Third Stone's goods and services are, or likely will be, confused as to the source of the goods and services advertised and offered by eBay under the Close5 mark.

47. Consumers of Third Stone's goods and services have, in fact, been confused by the Close5 mark, thinking that the eBay mobile application is offered, endorsed or controlled by Third Stone or vice versa.

48. Such confusion has and will continue to substantially harm Third Stone's goodwill and damage Third Stone's significant investment of time and resources into creating the 5miles Marks and the goodwill that now surrounds them.

49. Third Stone therefore seeks preliminary and permanent injunctive relief to enjoin eBay's threatened and unauthorized use of the Close5 trademarks.

PRAYER FOR RELIEF

WHEREFORE PREMISES CONSIDERED, Third Stone prays that the Court enter a judgment against Defendants granting Third Stone the following relief:

- a. A preliminary injunction enjoining and restraining Defendants from the use of the 5miles Marks and any mark that is the same as or confusingly similar to the 5miles Marks, including without limitation Close5, the tagline “Everything within 5 miles,” and the Close5 app icon;
- b. A permanent injunction enjoining and restraining Defendants from the use of the 5miles Marks and any mark that is the same as or confusingly similar to the 5miles Marks, including without limitation Close5, the tagline “Everything within 5 miles,” and the Close5 app icon;
- c. That the Court declare this is an exceptional case under the Lanham Act and award Third Stone its attorneys’ fees; and
- d. That the Court award Third Stone such other relief as the Court deems proper.

Date: February 25, 2016

Respectfully submitted,

/s/ Joshua J. Bennett

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CARTER SCHOLER ARNETT

HAMADA & MOCKLER, PLLC

8150 N. Central Expy, Suite 500

Dallas, Texas 75206

214-550-8188 Telephone

214-550-8185 Facsimile

ATTORNEYS FOR PLAINTIFF

EXHIBIT A

PTO Form 1478 (Rev 9/2006)
 OMB No. 0651-0009 (Exp 12/31/2014)

Trademark/Service Mark Application, Principal Register

Serial Number: 86294339

Filing Date: 05/29/2014

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86294339
MARK INFORMATION	
*MARK	5 miles
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	5 miles
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	The Third Stone Co. Ltd (Beijing)
*STREET	WangjingSoho1B, Rm 506, Futong East Ave
*CITY	Wangjing Chaoyang
*COUNTRY	China
*ZIP/POSTAL CODE (Required for U.S. applicants only)	100102
PHONE	0118613051391297
EMAIL ADDRESS	dawnie@wespoke.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
LEGAL ENTITY INFORMATION	
TYPE	limited liability company
STATE/COUNTRY WHERE LEGALLY ORGANIZED	China
GOODS AND/OR SERVICES AND BASIS INFORMATION	

INTERNATIONAL CLASS	009
*IDENTIFICATION	Downloadable software in the nature of a mobile application and computer software for members to upload, post, display, organize, browse, discuss, buy and sell goods and services from members of an on-line community. Namely, sellers may use the mobile application and/or computer e-commerce software to post products or services to be offered for sale, and buyers may contact the seller, offer to purchase the product via the internet and the seller and buyers can negotiate the price using the mobile application and/or e-commerce software platform. Sellers and buyers are also able to leave feedback through the mobile application and/or e-commerce platform in relation to the transaction.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	035
*IDENTIFICATION	Advertising and advertisement services; Operating on-line marketplaces for sellers and buyers of goods and/or services. Including promoting goods and services of users using specified key words.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	042
*IDENTIFICATION	Computer services, namely, creating an on-line community for registered users to upload, post, display, organize, browse, discuss, buy and sell goods and services, to interact and engage in social networking.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	041
*IDENTIFICATION	Providing sweepstakes, games of skill and chance and contests via the internet; entertainment services; educational services, namely, providing courses, classes and seminars in the fields of buying and selling via online marketplaces, as well as establishing and operating online marketplace businesses.

FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	038
*IDENTIFICATION	Telecommunications services, namely, the electronic transmission of data and information; electronic messaging between users; providing an online, interactive bulletin board for the transmission of messages among members concerning hobbies, collectibles, trading, and the sale of goods and services via the mobile application and the online marketplace.
FILING BASIS	SECTION 1(b)
CORRESPONDENCE INFORMATION	
NAME	The Third Stone Co. Ltd (Beijing)
FIRM NAME	The Third Stone Co. Ltd (Beijing)
STREET	WangjingSoho 1B, Rm 506, Futong East Ave
CITY	Wangjing Chaoyang
COUNTRY	China
ZIP/POSTAL CODE	100102
PHONE	00118684164367
EMAIL ADDRESS	lu@wespoke.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	5
FEE PER CLASS	325
*TOTAL FEE DUE	1625
*TOTAL FEE PAID	1625
SIGNATURE INFORMATION	
SIGNATURE	/luliang/
SIGNATORY'S NAME	Lu Liang
SIGNATORY'S POSITION	Director
DATE SIGNED	05/29/2014

Trademark/Service Mark Application, Principal Register

Serial Number: 86294339

Filing Date: 05/29/2014

To the Commissioner for Trademarks:

MARK: 5 miles (Standard Characters, see [mark](#))

The literal element of the mark consists of 5 miles.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, The Third Stone Co. Ltd (Beijing), a limited liability company legally organized under the laws of China, having an address of

WangjingSoho1B, Rm 506, Futong East Ave
Wangjing Chaoyang 100102
China

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 009: Downloadable software in the nature of a mobile application and computer software for members to upload, post, display, organize, browse, discuss, buy and sell goods and services from members of an on-line community. Namely, sellers may use the mobile application and/or computer e-commerce software to post products or services to be offered for sale, and buyers may contact the seller, offer to purchase the product via the internet and the seller and buyers can negotiate the price using the mobile application and/or e-commerce software platform. Sellers and buyers are also able to leave feedback through the mobile application and/or e-commerce platform in relation to the transaction. Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 035: Advertising and advertisement services; Operating on-line marketplaces for sellers and buyers of goods and/or services. Including promoting goods and services of users using specified key words. Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 042: Computer services, namely, creating an on-line community for registered users to upload, post, display, organize, browse, discuss, buy and sell goods and services, to interact and engage in social networking. Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15

U.S.C. Section 1051(b)).

International Class 041: Providing sweepstakes, games of skill and chance and contests via the internet; entertainment services; educational services, namely, providing courses, classes and seminars in the fields of buying and selling via online marketplaces, as well as establishing and operating online marketplace businesses.

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 038: Telecommunications services, namely, the electronic transmission of data and information; electronic messaging between users; providing an online, interactive bulletin board for the transmission of messages among members concerning hobbies, collectibles, trading, and the sale of goods and services via the mobile application and the online marketplace.

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Correspondence Information:

The Third Stone Co. Ltd (Beijing)
The Third Stone Co. Ltd (Beijing)
WangjingSoho1B, Rm 506, Futong East Ave
Wangjing Chaoyang 100102, China
00118684164367(phone)
lu@wespoke.com (authorized)

A fee payment in the amount of \$1625 has been submitted with the application, representing payment for 5 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /luliang/ Date: 05/29/2014

Signatory's Name: Lu Liang

Signatory's Position: Director

RAM Sale Number: 86294339

RAM Accounting Date: 05/29/2014

Serial Number: 86294339

Internet Transmission Date: Thu May 29 06:03:53 EDT 2014

TEAS Stamp: USPTO/BAS-XXX.XXX.XX.XXX-201405290603538

32545-86294339-50059da6a895d91d5229b74b9

812e97e68ffc23039d110bdb2c0e0f0ecaefa41-

CC-12722-20140529045840702031

5 miles

5 miles

EXHIBIT B

PTO Form 1478 (Rev 9/2006)
 OMB No. 0651-0009 (Exp 12/31/2014)

Trademark/Service Mark Application, Principal Register

Serial Number: 86476006

Filing Date: 12/10/2014

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86476006
MARK INFORMATION	
*MARK	5miles
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	5miles
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	The Third Stone Co. Ltd (Beijing)
*STREET	WangjingSoho1B, Rm506, Futong East Ave
*CITY	Wangjing Chaoyang
*COUNTRY	China
*ZIP/POSTAL CODE (Required for U.S. applicants only)	100102
PHONE	+8618657121188
EMAIL ADDRESS	lu@wespoke.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
WEBSITE ADDRESS	http://5milesapp.com/
LEGAL ENTITY INFORMATION	
TYPE	limited liability company
STATE/COUNTRY WHERE LEGALLY ORGANIZED	China

GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	009
*IDENTIFICATION	Downloadable mobile application and computer software for users to buy or sell goods and/or services in an on-line community, where users can upload, post, display, organize, browse and search for information related to particular goods and services, and communicate with each other to facilitate any buying and selling transactions.
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 08/21/2014
FIRST USE IN COMMERCE DATE	At least as early as 08/21/2014
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT16\864\760\86476006\xml1\ APP0003.JPG
SPECIMEN DESCRIPTION	5miles website screen shot as a specimen for evidence of use
INTERNATIONAL CLASS	035
*IDENTIFICATION	Advertising and advertisement services; Operating on-line marketplaces for sellers and buyers of goods and/or services; promoting certain goods and services with specified key words via search engine optimization.
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 08/21/2014
FIRST USE IN COMMERCE DATE	At least as early as 08/21/2014
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT16\864\760\86476006\xml1\ APP0004.JPG
SPECIMEN DESCRIPTION	5miles website screen shot as a specimen for evidence of use
INTERNATIONAL CLASS	038
*IDENTIFICATION	Telecommunications services, namely, the electronic transmission of data and information; electronic messaging between users; providing an online community or electronic bulletin board users to exchange messages concerning their hobbies, collectibles, goods and services for trading,

	sale and purchase purposes.
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 08/21/2014
FIRST USE IN COMMERCE DATE	At least as early as 08/21/2014
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT16\864\760\86476006\xml1\ APP0005.JPG
SPECIMEN DESCRIPTION	5miles website screen shot as a specimen for evidence of use
INTERNATIONAL CLASS	041
*IDENTIFICATION	Entertainment services, namely, providing sweepstakes services, contests and games of skill and chance in an online marketplace; educational services, namely, providing courses, classes and seminars in the fields of buying and selling via online marketplaces, as well as establishing and operating online marketplace businesses
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 08/21/2014
FIRST USE IN COMMERCE DATE	At least as early as 08/21/2014
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT16\864\760\86476006\xml1\ APP0006.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\864\760\86476006\xml1\ APP0007.JPG
SPECIMEN DESCRIPTION	5miles website screen shots as specimens for evidence of use
INTERNATIONAL CLASS	042
*IDENTIFICATION	Computer services, namely, providing an on-line community for users to upload, post, display, organize, browse and search for information of goods and/or services, to buy and sell goods and/or services via direct communications, and to interact with each other and engage in social networking
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 08/21/2014
FIRST USE IN COMMERCE DATE	At least as early as 08/21/2014

SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT\16\864\760\86476006\xml1\APP0006.JPG
	\\TICRS\EXPORT16\IMAGEOUT\16\864\760\86476006\xml1\APP0007.JPG
SPECIMEN DESCRIPTION	5miles website screen shots as specimens for evidence of use
CORRESPONDENCE INFORMATION	
NAME	Peng Li
FIRM NAME	c/-The Third Stone Co. Ltd (Beijing)
STREET	417 S Hill Street #403
CITY	Los Angeles
STATE	California
COUNTRY	United States
ZIP/POSTAL CODE	90013
PHONE	858-342-7063
FAX	213-402-2262
EMAIL ADDRESS	lu@wespoke.com;pli@cyiplaw.com; james@wespoke.com; andrew@wespoke.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	5
FEE PER CLASS	325
*TOTAL FEE DUE	1625
*TOTAL FEE PAID	1625
SIGNATURE INFORMATION	
SIGNATURE	/LU LIANG/
SIGNATORY'S NAME	Dr Liang LU
SIGNATORY'S POSITION	Owner
DATE SIGNED	12/10/2014

Trademark/Service Mark Application, Principal Register

Serial Number: 86476006

Filing Date: 12/10/2014

To the Commissioner for Trademarks:

MARK: 5miles (Standard Characters, see [mark](#))

The literal element of the mark consists of 5miles.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, The Third Stone Co. Ltd (Beijing), a limited liability company legally organized under the laws of China, having an address of

WangjingSoho1B, Rm506, Futong East Ave
Wangjing Chaoyang 100102
China

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 009: Downloadable mobile application and computer software for users to buy or sell goods and/or services in an on-line community, where users can upload, post, display, organize, browse and search for information related to particular goods and services, and communicate with each other to facilitate any buying and selling transactions.

In International Class 009, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 08/21/2014, and first used in commerce at least as early as 08/21/2014, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) 5miles website screen shot as a specimen for evidence of use.

[Specimen File 1](#)

International Class 035: Advertising and advertisement services; Operating on-line marketplaces for sellers and buyers of goods and/or services; promoting certain goods and services with specified key words via search engine optimization.

In International Class 035, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 08/21/2014, and first used in commerce at least as early as 08/21/2014, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) 5miles website screen shot as a specimen for evidence of use.

[Specimen File1](#)

International Class 038: Telecommunications services, namely, the electronic transmission of data and information; electronic messaging between users; providing an online community or electronic bulletin board users to exchange messages concerning their hobbies, collectibles, goods and services for trading, sale and purchase purposes.

In International Class 038, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 08/21/2014, and first used in commerce at least as early as 08/21/2014, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) 5miles website screen shot as a specimen for evidence of use.

[Specimen File1](#)

International Class 041: Entertainment services, namely, providing sweepstakes services, contests and games of skill and chance in an online marketplace; educational services, namely, providing courses, classes and seminars in the fields of buying and selling via online marketplaces, as well as establishing and operating online marketplace businesses

In International Class 041, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 08/21/2014, and first used in commerce at least as early as 08/21/2014, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) 5miles website screen shots as specimens for evidence of use.

[Specimen File1](#)

[Specimen File2](#)

International Class 042: Computer services, namely, providing an on-line community for users to upload, post, display, organize, browse and search for information of goods and/or services, to buy and sell goods and/or services via direct communications, and to interact with each other and engage in social networking

In International Class 042, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 08/21/2014, and first used in commerce at least as early as 08/21/2014, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) 5miles website screen shots as specimens for evidence of use.

[Specimen File1](#)

[Specimen File2](#)

For informational purposes only, applicant's website address is: <http://5milesapp.com/>

The applicant's current Correspondence Information:

Peng Li

c/-The Third Stone Co. Ltd (Beijing)

417 S Hill Street #403

Los Angeles, California 90013

858-342-7063(phone)

213-402-2262(fax)

lu@wespoke.com; pli@cyiplaw.com; james@wespoke.com; andrew@wespoke.com (authorized)

A fee payment in the amount of \$1625 has been submitted with the application, representing payment for 5 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /LU LIANG/ Date: 12/10/2014

Signatory's Name: Dr Liang LU

Signatory's Position: Owner

RAM Sale Number: 86476006

RAM Accounting Date: 12/10/2014

Serial Number: 86476006

Internet Transmission Date: Wed Dec 10 03:07:20 EST 2014

TEAS Stamp: USPTO/BAS-XXX.XX.XXX.XXX-201412100307208

51995-86476006-500a184ab14299476414c24a7

c9d5ff69dafbbcd35aec1ad3d31107f89ad7837-

CC-6508-20141210021202422760

5 miles

The screenshot shows a web browser window with the address bar displaying "5milesapp.com". The page features a large background image of red roller skates on a wooden deck. The main heading reads "5miles Shop & Sell with Fun" with the tagline "Your Pocket Shop". Below this, the text says "Sell your pre-loved stuff and spread the love" and "Buy that thing you've always wanted but never could find...". An orange button offers to "Send the download link to my phone". Two download buttons are present: "Download on the App Store" and "GET IT ON Google play". A video player is overlaid on the right side, showing a smartphone with the app interface and text: "Free for buyers" and "Free for sellers". The video progress bar shows "0:42/1:08". Below the main content, the text "New items near you." is followed by a row of four small image thumbnails: a pair of shoes, a piece of fabric, a cartoon illustration of a man and a woman, and a promotional banner for "Get Social & Win!" with a "Gift Card" icon.

The screenshot shows a web browser window with the address bar displaying "5milesapp.com". The page features a large background image of red roller skates on a wooden deck. The main heading reads "5miles Shop & Sell with Fun" with the tagline "Your Pocket Shop". Below this, the text says "Sell your pre-loved stuff and spread the love" and "Buy that thing you've always wanted but never could find...". An orange button offers to "Send the download link to my phone". Two download buttons are present: "Download on the App Store" and "GET IT ON Google play". A video player is overlaid on the right, showing a smartphone with the app interface and text: "Free for buyers" and "Free for sellers". The video progress bar shows "0:42/1:08". Below the main content, the text "New items near you." is followed by a row of four small image thumbnails: a pair of shoes, a piece of fabric, a cartoon illustration of a man and a woman, and a promotional banner for "Get Social & Win!" with a "Gift Card" icon.

The screenshot shows a web browser window with the address bar displaying "5milesapp.com". The browser's navigation bar includes links for Apple, iCloud, Facebook, Twitter, Wikipedia, Yahoo, News, and Popular. The main content area features the "5miles" logo with the tagline "Your Pocket Shop" and the heading "Shop & Sell with Fun". Below this, the text reads "Sell your pre-loved stuff and spread the love" and "Buy that thing you've always wanted but never could find...". An orange button says "Send the download link to my phone". There are two download buttons: "Download on the App Store" and "GET IT ON Google play". A video player is overlaid on the right, showing a smartphone with the app interface and a play button. The video player has a progress bar at the bottom showing "0:42/1:08". Below the video player, the text "New items near you." is displayed. At the bottom of the page, there are four small image thumbnails: a pair of shoes, a piece of fabric, a cartoon illustration of a man and a woman, and a promotional banner for "Get Social & Win!" with a "Gift Card" icon.

The screenshot shows a web browser window with the address bar displaying "5milesapp.com". The browser's menu bar includes "Apple", "iCloud", "Facebook", "Twitter", "Wikipedia", "Yahoo", "News", and "Popular". The main content area features the "5miles" logo with the tagline "Your Pocket Shop" and the heading "Shop & Sell with Fun". Below this, the text reads "Sell your pre-loved stuff and spread the love" and "Buy that thing you've always wanted but never could find...". An orange button says "Send the download link to my phone". There are two download buttons: "Download on the App Store" and "GET IT ON Google play". A video player is overlaid on the right, showing a smartphone with the app interface. The video player has a progress bar at 0:42/1:08. Below the video player, the text "New items near you." is visible. At the bottom, there are four small image thumbnails: a pair of shoes, a piece of fabric, a cartoon illustration of a man and a woman, and a "Get Social & Win!" banner with a red ribbon icon.



0 Your Entries	10 Days Left
--------------------------	------------------------

5miles



WIN - \$5 Amazon Card

Win \$5 to spend on anything you want on Amazon!

6 Ways to Enter

Login with: [f](#) [t](#) [+](#) [i](#)

	Follow @5milesapp on Twitter	+1
	Tweet on Twitter	+1
	Follow 5milesapp on Instagram	+1
	Follow @5milesapp on Pinterest	+1

5 miles

The screenshot shows a web browser window with the address bar displaying "5milesapp.com". The page features a large background image of red roller skates on a wooden deck. The main heading reads "5miles Shop & Sell with Fun" with the tagline "Your Pocket Shop". Below this, the text says "Sell your pre-loved stuff and spread the love" and "Buy that thing you've always wanted but never could find...". An orange button offers to "Send the download link to my phone". There are two download buttons: "Download on the App Store" and "GET IT ON Google play". A video player is overlaid on the right side, showing a smartphone with the app interface and text: "Free for buyers" and "Free for sellers". The video progress bar shows "0:42/1:08". Below the main content, the text "New items near you." is followed by a row of four small image thumbnails: a pair of shoes, a piece of fabric, a cartoon illustration of a man and a woman, and a promotional banner for "Get Social & Win!" with a "Gift Card" icon.

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The screenshot shows a web browser window with the address bar displaying "5milesapp.com". The browser's menu bar includes "Apple", "iCloud", "Facebook", "Twitter", "Wikipedia", "Yahoo", "News", and "Popular". The main content area features the "5miles" logo with the tagline "Your Pocket Shop" and the heading "Shop & Sell with Fun". Below this, the text reads "Sell your pre-loved stuff and spread the love" and "Buy that thing you've always wanted but never could find...". An orange button says "Send the download link to my phone". There are two download buttons: "Download on the App Store" and "GET IT ON Google play". A video player is overlaid on the right, showing a smartphone with the app interface and a play button. The video player has a progress bar at 0:42/1:08. Below the video, the text "New items near you." is followed by a row of four image thumbnails: a pair of shoes, a piece of fabric, a cartoon illustration of a man and a woman, and a "Get Social & Win!" banner with a red ribbon icon.

The screenshot shows a web browser window with the address bar displaying "5milesapp.com". The browser's navigation bar includes links for Apple, iCloud, Facebook, Twitter, Wikipedia, Yahoo, News, and Popular. The main content area features the "5miles" logo with the tagline "Your Pocket Shop" and the heading "Shop & Sell with Fun". Below this, the text reads "Sell your pre-loved stuff and spread the love" and "Buy that thing you've always wanted but never could find...". An orange button says "Send the download link to my phone". There are two download buttons: "Download on the App Store" and "GET IT ON Google play". A video player is overlaid on the right side, showing a smartphone with the app interface. The video player has a play button, a progress bar, and a timestamp of "0:42/1:08". Below the video player, the text "New items near you." is visible. At the bottom of the page, there are four small image thumbnails: a pair of shoes, a piece of fabric, a cartoon illustration of a man and a woman, and a promotional banner for "Get Social & Win!" with a "Gift Card" icon.



0 Your Entries	10 Days Left
5miles	
	WIN - \$5 Amazon Card Win \$5 to spend on anything you want on Amazon!
6 Ways to Enter	
Login with:    	
 Follow @5milesapp on Twitter	+1
 Tweet on Twitter	+1
 Follow 5milesapp on Instagram	+1
 Follow @5milesapp on Pinterest	+1

EXHIBIT C

PTO Form 1478 (Rev 9/2006)
 OMB No. 0651-0009 (Exp 12/31/2014)

Trademark/Service Mark Application, Principal Register

Serial Number: 86476016

Filing Date: 12/10/2014

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86476016
MARK INFORMATION	
*MARK	\\TICRS\EXPORT16\IMAGEOUT\16\864\760\86476016\xml1\APP0002.JPG
SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	5miles
COLOR MARK	YES
COLOR(S) CLAIMED (If applicable)	The color(s) orange is/are claimed as a feature of the mark.
*DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of the stylized word "5miles" with the text in orange.
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	900 x 464
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	The Third Stone Co. Ltd (Beijing)
*STREET	WangjingSoho1B, Rm506, Futong East Ave
*CITY	Wangjing Chaoyang
*COUNTRY	China
*ZIP/POSTAL CODE (Required for U.S. applicants only)	100102
PHONE	+8618657121188
EMAIL ADDRESS	lu@wespoke.com

AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
WEBSITE ADDRESS	http://5milesapp.com/
LEGAL ENTITY INFORMATION	
TYPE	limited liability company
STATE/COUNTRY WHERE LEGALLY ORGANIZED	China
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	009
*IDENTIFICATION	Downloadable mobile application and computer software for users to buy or sell goods and/or services in an on-line community, where users can upload, post, display, organize, browse and search for information related to particular goods and services, and communicate with each other to facilitate any buying and selling transactions.
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 08/21/2014
FIRST USE IN COMMERCE DATE	At least as early as 08/21/2014
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT16\864\760\86476016\xml1\ APP0003.JPG
SPECIMEN DESCRIPTION	5miles website screen shot as a specimen for evidence of use
INTERNATIONAL CLASS	035
*IDENTIFICATION	Advertising and advertisement services; Operating on-line marketplaces for sellers and buyers of goods and/or services; promoting certain goods and services with specified key words via search engine optimization.
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 08/21/2014
FIRST USE IN COMMERCE DATE	At least as early as 08/21/2014
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT16\864\760\86476016\xml1\ APP0004.JPG
SPECIMEN DESCRIPTION	5miles website screen shot as a specimen for evidence of use

INTERNATIONAL CLASS	038
*IDENTIFICATION	Telecommunications services, namely, the electronic transmission of data and information; electronic messaging between users; providing an online community or electronic bulletin board users to exchange messages concerning their hobbies, collectibles, goods and services for trading, sale and purchase purposes.
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 08/21/2014
FIRST USE IN COMMERCE DATE	At least as early as 08/21/2014
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT16\864\760\86476016\xml1\ APP0005.JPG
SPECIMEN DESCRIPTION	5miles website screen shot as a specimen for evidence of use
INTERNATIONAL CLASS	041
*IDENTIFICATION	Entertainment services, namely, providing sweepstakes services, contests and games of skill and chance in an online marketplace; educational services, namely, providing courses, classes and seminars in the fields of buying and selling via online marketplaces, as well as establishing and operating online marketplace businesses
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 08/21/2014
FIRST USE IN COMMERCE DATE	At least as early as 08/21/2014
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT16\864\760\86476016\xml1\ APP0006.JPG
SPECIMEN DESCRIPTION	\\TICRS\EXPORT16\IMAGEOUT16\864\760\86476016\xml1\ APP0007.JPG 5miles website screen shots as specimens for evidence of use
INTERNATIONAL CLASS	042
*IDENTIFICATION	Computer services, namely, providing an on-line community for users to upload, post, display, organize, browse and search for information of goods and/or services, to buy

	and sell goods and/or services via direct communications, and to interact with each other and engage in social networking
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 08/21/2014
FIRST USE IN COMMERCE DATE	At least as early as 08/21/2014
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT16\864\760\86476016\xml1\ APP0006.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\864\760\86476016\xml1\ APP0007.JPG
SPECIMEN DESCRIPTION	5miles website screen shots as specimens for evidence of use
DOMESTIC REPRESENTATIVE INFORMATION	
NAME	Peng Li
FIRM NAME	c/- The Third Stone Co Ltd (Beijing)
STREET	417 S Hill St #403
CITY	Los Angeles
STATE	California
COUNTRY	United States
ZIP CODE	90013
PHONE	858-342-7063
FAX	213-402-2262
EMAIL ADDRESS	pli@cyiplaw.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
CORRESPONDENCE INFORMATION	
NAME	Peng Li
FIRM NAME	c/- The Third Stone Co Ltd (Beijing)
STREET	417 S Hill St #403
CITY	Los Angeles
STATE	California
COUNTRY	United States
ZIP/POSTAL CODE	90013

PHONE	858-342-7063
FAX	213-402-2262
EMAIL ADDRESS	pli@cyiplaw.com;lu@wespoke.com; james@wespoke.com; andrew@wespoke.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	5
FEE PER CLASS	325
*TOTAL FEE DUE	1625
*TOTAL FEE PAID	1625
SIGNATURE INFORMATION	
SIGNATURE	/LU LIANG/
SIGNATORY'S NAME	Dr Liang LU
SIGNATORY'S POSITION	Owner
DATE SIGNED	12/10/2014

Trademark/Service Mark Application, Principal Register

Serial Number: 86476016

Filing Date: 12/10/2014

To the Commissioner for Trademarks:

MARK: 5miles (stylized and/or with design, see [mark](#))

The literal element of the mark consists of 5miles.

The color(s) orange is/are claimed as a feature of the mark. The mark consists of the stylized word "5miles" with the text in orange.

The applicant, The Third Stone Co. Ltd (Beijing), a limited liability company legally organized under the laws of China, having an address of

WangjingSoho1B, Rm506, Futong East Ave
Wangjing Chaoyang 100102
China

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 009: Downloadable mobile application and computer software for users to buy or sell goods and/or services in an on-line community, where users can upload, post, display, organize, browse and search for information related to particular goods and services, and communicate with each other to facilitate any buying and selling transactions.

In International Class 009, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 08/21/2014, and first used in commerce at least as early as 08/21/2014, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) 5miles website screen shot as a specimen for evidence of use.

[Specimen File1](#)

International Class 035: Advertising and advertisement services; Operating on-line marketplaces for sellers and buyers of goods and/or services; promoting certain goods and services with specified key words via search engine optimization.

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use.

[Specimen File1](#)

International Class 038: Telecommunications services, namely, the electronic transmission of data and information; electronic messaging between users; providing an online community or electronic bulletin board users to exchange messages concerning their hobbies, collectibles, goods and services for trading, sale and purchase purposes.

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[Specimen File1](#)

International Class 041: Entertainment services, namely, providing sweepstakes services, contests and games of skill and chance in an online marketplace; educational services, namely, providing courses, classes and seminars in the fields of buying and selling via online marketplaces, as well as establishing and operating online marketplace businesses

In International Class 041, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 08/21/2014, and first used in commerce at least as early as 08/21/2014, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) 5miles website screen shots as specimens for evidence of use.

[Specimen File1](#)

[Specimen File2](#)

International Class 042: Computer services, namely, providing an on-line community for users to upload, post, display, organize, browse and search for information of goods and/or services, to buy and sell goods and/or services via direct communications, and to interact with each other and engage in social networking

In International Class 042, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 08/21/2014, and first used in commerce at least as early as 08/21/2014, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) 5miles website screen shots as specimens for evidence of use.

[Specimen File1](#)

[Specimen File2](#)

For informational purposes only, applicant's website address is: <http://5milesapp.com/>

The applicant hereby appoints Peng Li of c/- The Third Stone Co Ltd (Beijing)

417 S Hill St #403
Los Angeles California 90013
United States

as applicant's representative upon whom notice or process in the proceedings affecting the mark may be served.

The applicant's current Correspondence Information:

Peng Li
c/- The Third Stone Co Ltd (Beijing)
417 S Hill St #403
Los Angeles, California 90013
858-342-7063(phone)
213-402-2262(fax)
pli@cyiplaw.com;lu@wespoke.com; james@wespoke.com; andrew@wespoke.com (authorized)

A fee payment in the amount of \$1625 has been submitted with the application, representing payment for 5 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /LU LIANG/ Date: 12/10/2014
Signatory's Name: Dr Liang LU
Signatory's Position: Owner
RAM Sale Number: 86476016
RAM Accounting Date: 12/10/2014

Serial Number: 86476016
Internet Transmission Date: Wed Dec 10 03:38:34 EST 2014
TEAS Stamp: USPTO/BAS-XXX.XX.XXX.XXX-201412100338346

40771-86476016-500b7af36ad9f2a8d84cfd3f7
cd26d8c54699778a6a7d033b8b84ad8e7fe1328b
0-CC-6528-20141210031041082795

5miles

The screenshot shows a web browser window with the address bar displaying "5milesapp.com". The browser's navigation bar includes links for Apple, iCloud, Facebook, Twitter, Wikipedia, Yahoo, News, and Popular. The main content area features the "5miles" logo with the tagline "Your Pocket Shop" and the heading "Shop & Sell with Fun". Below this, the text reads "Sell your pre-loved stuff and spread the love" and "Buy that thing you've always wanted but never could find...". An orange button says "Send the download link to my phone". There are two download buttons: "Download on the App Store" and "GET IT ON Google play". A video player is overlaid on the right side, showing a smartphone with the app interface. The video player has a play button, a progress bar, and a timestamp of "0:42/1:08". Below the video player, the text "New items near you." is displayed. At the bottom of the page, there are four small image thumbnails: a pair of shoes, a piece of fabric, a cartoon illustration of a man and a woman, and a "Get Social & Win!" banner with a red ribbon icon.

The screenshot shows a web browser window with the address bar displaying "5milesapp.com". The page features a large background image of red roller skates on a wooden deck. The main heading reads "5miles Shop & Sell with Fun" with the tagline "Your Pocket Shop". Below this, the text says "Sell your pre-loved stuff and spread the love" and "Buy that thing you've always wanted but never could find...". An orange button offers to "Send the download link to my phone". Two download buttons are present: "Download on the App Store" and "GET IT ON Google play". A video player is overlaid on the right side, showing a smartphone with the app interface and text: "Free for buyers" and "Free for sellers". The video progress bar shows "0:42/1:08". Below the main content, the text "New items near you." is followed by a row of four small image thumbnails: a pair of shoes, a piece of fabric, a cartoon illustration of a man and a woman, and a promotional banner for "Get Social & Win!" with a "Gift Card" icon.

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0 Your Entries	10 Days Left	
5miles		
WIN - \$5 Amazon Card Win \$5 to spend on anything you want on Amazon!		
		
6 Ways to Enter		
Login with:    		
	Follow @5milesapp on Twitter	+1
	Tweet on Twitter	+1
	Follow 5milesapp on Instagram	+1
	Follow @5milesapp on Pinterest	+1

5miles

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0 Your Entries	10 Days Left
5miles	
	WIN - \$5 Amazon Card Win \$5 to spend on anything you want on Amazon!
6 Ways to Enter	
Login with:    	
 Follow @5milesapp on Twitter	+1
 Tweet on Twitter	+1
 Follow 5milesapp on Instagram	+1
 Follow @5milesapp on Pinterest	+1

EXHIBIT D

United States of America
United States Patent and Trademark Office

5 MILES

Reg. No. 4,905,765

THE THIRD STONE CO. LTD (BEIJING) (CHINA LIMITED LIABILITY COMPANY)
WANGJINGSOHO1B, RM 506, FUTONG EAST AVE
WANGJING CHAOYANG, CHINA 100102

Registered Feb. 23, 2016

**Int. Cls.: 9, 35, 38, 41,
and 42**

FOR: DOWNLOADABLE MOBILE APPLICATION AND COMPUTER SOFTWARE FOR ENABLING USERS TO UPLOAD, POST, DISPLAY, ORGANIZE, BROWSE, DISCUSS, BUY AND SELL GOODS AND SERVICES FROM MEMBERS OF AN ON-LINE COMMUNITY, AND TO LEAVE FEEDBACK IN RELATION TO SUCH TRANSACTIONS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

TRADEMARK

SERVICE MARK

FIRST USE 8-21-2014; IN COMMERCE 8-21-2014.

PRINCIPAL REGISTER

FOR: ADVERTISING AND ADVERTISEMENT SERVICES; OPERATING ON-LINE MARKET-PLACES FOR SELLERS AND BUYERS OF GOODS AND/OR SERVICES; SEARCH ENGINE OPTIMIZATION IN THE NATURE OF PROMOTING GOODS AND SERVICES OF USERS USING SPECIFIED KEY WORDS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 8-21-2014; IN COMMERCE 8-21-2014.

FOR: TELECOMMUNICATIONS SERVICES, NAMELY, THE ELECTRONIC TRANSMISSION OF DATA AND INFORMATION; ELECTRONIC MESSAGING BETWEEN USERS; PROVIDING AN ONLINE ELECTRONIC BULLETIN BOARD FOR THE TRANSMISSION OF MESSAGES AMONG MEMBERS CONCERNING HOBBIES, COLLECTIBLES, AND THE TRADING, SALE AND PURCHASE OF COLLECTIBLES ITEMS, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 8-21-2014; IN COMMERCE 8-21-2014.

FOR: ENTERTAINMENT SERVICES, NAMELY, PROVIDING SWEEPSTAKES SERVICES, CONTESTS AND ONLINE GAMES OF SKILL AND CHANCE VIA THE INTERNET; EDUCATIONAL SERVICES, NAMELY, PROVIDING COURSES, CLASSES AND SEMINARS IN THE FIELDS OF BUYING AND SELLING VIA ONLINE MARKETPLACES, AS WELL AS ESTABLISHING AND OPERATING ONLINE MARKETPLACE BUSINESSES, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 8-21-2014; IN COMMERCE 8-21-2014.



Michelle K. Lee

Director of the United States
Patent and Trademark Office

Reg. No. 4,905,765 FOR: COMPUTER SERVICES, NAMELY, CREATING AN ON-LINE COMMUNITY FOR REGISTERED USERS TO UPLOAD, POST, DISPLAY, ORGANIZE, BROWSE, DISCUSS, BUY AND SELL GOODS AND SERVICES, TO INTERACT AND ENGAGE IN SOCIAL NETWORKING, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 8-21-2014; IN COMMERCE 8-21-2014.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 86-294,339, FILED 5-29-2014.

STEVEN PEREZ, EXAMINING ATTORNEY

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

THE THIRD STONE CO. LTD.

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Sean T. Hamada, Carter Scholer, 8150 N. Central Expressway, Suite 500, Dallas, TX 75206, 214-550-4661, shamada@carterscholer.com

DEFENDANTS

EBAY INTERNATIONAL AG; EBAY, INC. and MARKTPLAATS BV

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 1331, 1338; 15 U.S.C. § 1121

Brief description of cause: U.S. trademark law, including Lanham Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED PENDING OR CLOSED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD /s/ Joshua J. Bennett

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 - Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
 - Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 - Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 - Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If a related case exists, whether pending or closed, insert the docket numbers and the corresponding judge names for such cases. A case is related to this filing if the case: 1) involves some or all of the same parties and is based on the same or a similar claim; 2) involves the same property, transaction, or event; 3) involves substantially similar issues of law and fact; and/or 4) involves the same estate in a bankruptcy appeal.

Attorney Signature. Date and sign the civil cover sheet.