ESTTA Tracking number: **ESTTA1353724**
Filing date: **04/22/2024**

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

Petition for Cancellation

Notice is hereby given that the following parties has filed a petition to cancel the registration indicated below.

Petitioner information

Name	Logitech International S.A.		
Entity	sociÃ©tÃ© anonyme (sa)	Incorporated or registered in	SWITZERLAND
Address	EPFL - QUARTIER DE L'INNOVATION DANIEL BOREL INNOVATION CENTE LAUSANNE, 1015 SWITZERLAND		

Name	Logitech Europe S.A.		
Entity	sociÃ©tÃ© anonyme (sa)	Incorporated or registered in	SWITZERLAND
Address	EPFL - QUARTIER DE L'INNOVATION DANIEL BOREL INNOVATION CENTER LAUSANNE, 1015 SWITZERLAND		

Attorney information	CHRISTOPHER M. DOLAN BARNES & THORNBURG LLP ONE NORTH WACKER DRIVE, SUITE 4400 CHICAGO, IL 60606 UNITED STATES Primary email: ipdocket@btlaw.com Secondary email(s): cdolan@btlaw.com, jfrick@btlaw.com, jamie.mueller@btlaw.com No phone number provided
Docket no.	73991.395156

Registration subject to cancellation

Registration no.	5998993	Registration date	03/03/2020
Register	Principal		
International registration no.	NONE	International registration date	NONE
Registrant	Cherry Europe GmbH CHERRYSTRASSE 2 91275 AUERBACH/OPF. GERMANY		

Goods/services subject to cancellation

Class 009. First Use: None First Use In Commerce: None
All goods and services in the class are subject to cancellation, namely: Computer input devices, computer mice, computer keyboards, and smart card readers

Grounds for cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)

Mark cited by petitioner as basis for cancellation

U.S. application/ registration no.	NONE	Application date	NONE
Register	NONE		
Registration date	NONE		
Mark	MX, MX MASTER, MX KEYS, LOGITECH MX		
Goods/services	goods and services directed to peripherals and computer and mobile accessories for PC navigation and video communication and collaboration		

Attachments	2024-04-22 - Logitech v. Cherry - MX - US Petition for Cancellation.p df(682322 bytes)

Signature	/Christopher M. Dolan/
Name	Christopher M. Dolan
Date	04/22/2024

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

Logitech International S.A. and Logitech Europe S.A, **Petitioners,** **v.** **Cherry Europe GmbH,** **Respondent.**	**Cancellation No.: _____** **Reg. No.: 5998993** **Mark:**

PETITION FOR CANCELLATION

Petitioners Logitech International S.A., a Swiss société anonyme (sa), and Logitech Europe S.A., a Swiss société anonyme (sa), both with offices at Daniel Borel Innovation Center, EPFL - Quartier de l'Innovation, Lausanne, Switzerland (collectively, "Petitioners"), believes they have been and will continue to be damaged by the continued registration of Registration No. 5998993 for the MX and Design mark, registered on March 3, 2020 and owned by Cherry Europe GmbH ("Respondent"), a German gesellschaft mit beschränkter haftung with an address at Cherrystrasse 2, 91275 Auerbach/Opf., Germany, and therefore petitions to cancel such registration pursuant to 15 U.S.C. § 1063. In support of its petition, Petitioners state as follows:

Factual Background

1. Respondent is the owner of record of Registration No. 5998993 for the MX and Design Mark ("Respondent's Mark") reciting "Computer input devices, computer mice, computer keyboards, and smart card readers" in Class 9 (the "Subject Registration").

2. Since at least as early as 2005, and long prior to the September 30, 2014 filing date of the application to register Respondent's Mark (Ser. No. 79157579) and any date on which

Respondent could claim priority, Petitioners have continuously and extensively marketed and sold an extensive number of goods and services directed to peripherals and computer and mobile accessories for PC navigation and video communication and collaboration (collectively, "Petitioners' Goods") in United States commerce under the MX mark and various MX-formative marks including MX, MX MASTER, MX KEYS and LOGITECH MX (collectively, the "MX Marks").

3. Petitioners have invested considerable money, time and effort into the use, advertising, and promotion of the MX Marks for use in connection with Petitioners' Goods. As a result of Petitioners' extensive investment in the MX Marks, Petitioners own strong common law trademark rights in the MX Marks, embodying very valuable goodwill. By reason of such advertising, promotion and sale of Petitioners' Goods under the MX Marks, Petitioners have developed substantial goodwill and strong common law trademark rights in connection with the MX Marks in the United States.

4. Notwithstanding Petitioners' prior rights in and to the MX Marks, on December 25, 2014, Respondent's predecessor-in-interest filed the application to register Respondent's Mark claiming priority to the September 30, 2014 filing date of International Registration No. 1229256, and the USPTO issued the Subject Registration on March 3, 2020 for the Mark reciting "Computer input devices, computer mice, computer keyboards, and smart card readers" in International Class 9 ("Respondent's Goods").

5. According to USPTO records, Respondent's predecessor-in-interest assigned the application to register Respondent's Mark to Respondent on September 23, 2016, and Respondent is listed in USPTO records as the owner of the Subject Registration.

6. The Subject Registration is less than five years old as of the filing date of this Petition. A copy of the TSDR printout and Certificate of Registration for the Subject Registration are attached hereto as **Exhibit A**.

7. Petitioners' rights in the MX mark predates Respondent's rights in Respondent's Mark.

8. Respondent's Mark is confusingly similar, in appearance, sound, meaning, and commercial impression to Petitioners' MX Marks. The continued registration and use of Respondent's Mark by Respondent in association with Respondent's Goods is likely to cause confusion as to the source or origin of Respondent's Goods and is likely to mislead consumers, all to Petitioners' damage.

9. Upon information and belief and based on Petitioners' investigation, Respondent has not made a *bona fide* use of Respondent's Mark on or in connection with all of Respondent's Goods in United States Commerce.

10. The goods Petitioners offer under the MX Marks are identical to or, at a minimum, closely related to Respondent's Goods recited in the Subject Registration and the goods are offered to the same, similar or overlapping classes of purchasers.

11. Respondent's Mark, when used in connection with Respondent's Goods, is likely to cause confusion, to cause mistake, and to deceive the trade and public, who, upon seeing Respondent's Mark in connection with Respondent's Goods, would believe that such goods originate with, are approved, sponsored, or endorsed by, or have some connection or affiliation with Petitioners. Accordingly, the continued registration of Respondent's Mark would damage Petitioners and therefore, the Subject Registration should be cancelled pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

WHEREFORE, Petitioners believe that they have been, and will continue to be damaged by the continued registration of Respondent's Mark (Reg. No. 5998993), and therefore respectfully request that this Petition for Cancellation be granted, and that the Subject Registration be cancelled in its entirety from the Principal Register.

Respectfully submitted,

Logitech International S.A. and Logitech Europe S.A.

Date: April 22, 2024

By: /Christopher M. Dolan/
Christopher M. Dolan
Joshua S. Frick
BARNES & THORNBURG LLP
One North Wacker Drive
Suite 4400
Chicago, Illinois 60606-2833
Attorneys for Petitioners

Exhibit A

United States of America

United States Patent and Trademark Office

Reg. No. 5,998,993

Registered Mar. 03, 2020

Int. Cl.: 9

Trademark

Principal Register

Cherry GmbH (GERMANY GESELLSCHAFT MIT BESCHRÄNKTER HAFTUNG (GMBH))
Cherrystrasse
91275 Auerbach/opf.
FED REP GERMANY

CLASS 9: Computer input devices, computer mice, computer keyboards, and smart card readers

The mark consists of the literal element "MX" with horizontal and diagonal lines forming an incomplete polygon set above and below the lettering.

PRIORITY DATE OF 06-20-2014 IS CLAIMED

OWNER OF INTERNATIONAL REGISTRATION 1229156 DATED 09-30-2014, EXPIRES 09-30-2024

SER. NO. 79-157,579, FILED 09-30-2014

Director of the United States
Patent and Trademark Office

For assistance with TSDR, email **teas@uspto.gov** and include your serial number, the document you are looking for, and a screenshot of any error messages you have received.

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Mark: MX

US Serial Number:	79157579	**Application Filing Date:**	Sep. 30, 2014
US Registration Number:	5998993	**Registration Date:**	Mar. 03, 2020
Register:	Principal		
Mark Type:	Trademark		
TM5 Common Status Descriptor:	LIVE/REGISTRATION/Issued and Active The trademark application has been registered with the Office.		
Status:	Registered. The registration date is used to determine when post-registration maintenance documents are due.		
Status Date:	Mar. 03, 2020		
Publication Date:	Dec. 17, 2019		

Mark Information

Mark Literal Elements:	MX
Standard Character Claim:	No
Mark Drawing Type:	3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S) /NUMBER(S)
Description of Mark:	The mark consists of the literal element "MX" with horizontal and diagonal lines forming an incomplete polygon set above and below the lettering.
Color(s) Claimed:	Color is not claimed as a feature of the mark.
Design Search Code(s):	26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved

Related Properties Information

International Registration Number:	1229156
International Registration Date:	Sep. 30, 2014

Goods and Services

Note:
The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [..] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For:	Computer input devices, computer mice, computer keyboards, and smart card readers		
International Class(es):	009 - Primary Class	**U.S Class(es):**	021, 023, 026, 036, 038
Class Status:	ACTIVE		
Basis:	66(a)		

Basis Information (Case Level)

Filed Use:	No	**Currently Use:**	No
Filed ITU:	No	**Currently ITU:**	No
Filed 44D:	No	**Currently 44D:**	No
Filed 44E:	No	**Currently 44E:**	No
Filed 66A:	Yes	**Currently 66A:**	Yes
Filed No Basis:	No	**Currently No Basis:**	No

Current Owner(s) Information

Owner Name:	Cherry Europe GmbH		
Owner Address:	Cherrystrasse 2 91275 Auerbach/Opf. GERMANY		
Legal Entity Type:	GESELLSCHAFT MIT BESCHRÄNKTER HAFTUNG (GMBH)	**State or Country Where Organized:**	GERMANY

Attorney/Correspondence Information

Attorney of Record

Attorney Name:	Mari-Elise Paul	**Docket Number:**	2878LT11380
Attorney Primary Email Address:	mpaul@mcbrayerfirm.com	**Attorney Email Authorized:**	Yes

Correspondent

Correspondent Name/Address:	Mari-Elise Paul McBrayer PLLC 500 West Jefferson Street, Suite 2400 Louisville, KENTUCKY United States 40202		
Phone:	502-327-5400	**Fax:**	502-327-5444
Correspondent e-mail:	mpaul@mcbrayerfirm.com trademarks@mcbrayerfirm.com aharrison@mcbrayerfirm.com	**Correspondent e-mail Authorized:**	Yes

Domestic Representative

Domestic Representative Name:	Mari-Elise Paul	**Phone:**	502-327-5400
Fax:	502-327-5444		
Domestic Representative e-mail:	mpaul@mcbrayerfirm.com	**Domestic Representative e-mail Authorized:**	Yes

Prosecution History

Date	Description	Proceeding Number
Apr. 09, 2024	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Apr. 09, 2024	TEAS CHANGE OF DOMESTIC REPRESENTATIVES ADDRESS	
Apr. 09, 2024	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Apr. 09, 2024	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Feb. 21, 2024	TEAS WITHDRAWAL OF ATTORNEY RECEIVED-FIRM RETAINS	
Feb. 21, 2024	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Feb. 21, 2024	TEAS CHANGE OF DOMESTIC REPRESENTATIVES ADDRESS	
Feb. 21, 2024	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Feb. 21, 2024	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Dec. 23, 2023	NEW REPRESENTATIVE AT IB RECEIVED	
Nov. 26, 2021	CHANGE OF NAME/ADDRESS REC'D FROM IB	

Jul. 17, 2020	FINAL DECISION TRANSACTION PROCESSED BY IB
Jun. 27, 2020	FINAL DISPOSITION NOTICE SENT TO IB
Jun. 27, 2020	FINAL DISPOSITION PROCESSED
Jun. 03, 2020	FINAL DISPOSITION NOTICE CREATED, TO BE SENT TO IB
May 29, 2020	NOTIFICATION PROCESSED BY IB
Mar. 03, 2020	REGISTERED-PRINCIPAL REGISTER
Dec. 17, 2019	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED
Dec. 17, 2019	PUBLISHED FOR OPPOSITION
Nov. 27, 2019	NOTIFICATION OF POSSIBLE OPPOSITION SENT TO IB
Nov. 27, 2019	NOTICE OF START OF OPPOSITION PERIOD CREATED, TO BE SENT TO IB
Nov. 27, 2019	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED
Nov. 14, 2019	APPROVED FOR PUB - PRINCIPAL REGISTER
Nov. 14, 2019	EXAMINER'S AMENDMENT ENTERED
Nov. 14, 2019	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED
Nov. 14, 2019	EXAMINERS AMENDMENT E-MAILED
Nov. 14, 2019	EXAMINERS AMENDMENT -WRITTEN
Oct. 23, 2019	TEAS/EMAIL CORRESPONDENCE ENTERED
Oct. 23, 2019	CORRESPONDENCE RECEIVED IN LAW OFFICE
Oct. 18, 2019	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED
Jul. 17, 2019	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED
Jul. 17, 2019	LETTER OF SUSPENSION E-MAILED
Jul. 17, 2019	SUSPENSION LETTER WRITTEN
Jun. 28, 2019	TEAS/EMAIL CORRESPONDENCE ENTERED
Jun. 28, 2019	CORRESPONDENCE RECEIVED IN LAW OFFICE
Jun. 26, 2019	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED
Mar. 05, 2019	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED
Feb. 28, 2019	ASSIGNED TO LIE
Aug. 12, 2018	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED
Aug. 12, 2018	ASSIGNED TO LIE
Apr. 05, 2018	NEW REPRESENTATIVE AT IB RECEIVED
Feb. 21, 2018	LIMITATION FROM THE IB EXAMINED, NO ACTION IS NEEDED
Feb. 12, 2018	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED
Nov. 24, 2017	LIMITATION OF GOODS RECEIVED FROM IB
Aug. 01, 2017	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED
Jan. 26, 2017	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED
Dec. 16, 2016	NEW REPRESENTATIVE AT IB RECEIVED
Oct. 27, 2016	CHANGE OF OWNER RECEIVED FROM IB
Jul. 22, 2016	TEAS CHANGE OF CORRESPONDENCE RECEIVED
Jul. 11, 2016	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED
Jun. 10, 2016	NOTIFICATION OF POSSIBLE OPPOSITION - PROCESSED BY IB
May 25, 2016	NOTIFICATION OF POSSIBLE OPPOSITION SENT TO IB
May 25, 2016	NOTIFICATION OF POSSIBLE OPPOSITION CREATED, TO BE SENT TO IB
Jan. 06, 2016	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED
Jul. 06, 2015	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED
Jul. 06, 2015	LETTER OF SUSPENSION E-MAILED
Jul. 06, 2015	SUSPENSION LETTER WRITTEN
Jun. 11, 2015	TEAS/EMAIL CORRESPONDENCE ENTERED
Jun. 11, 2015	CORRESPONDENCE RECEIVED IN LAW OFFICE
Jun. 08, 2015	ASSIGNED TO LIE

Jun. 02, 2015	TEAS RESPONSE TO OFFICE ACTION RECEIVED
Feb. 06, 2015	REFUSAL PROCESSED BY IB
Jan. 22, 2015	NON-FINAL ACTION MAILED - REFUSAL SENT TO IB
Jan. 22, 2015	REFUSAL PROCESSED BY MPU
Jan. 21, 2015	NON-FINAL ACTION (IB REFUSAL) PREPARED FOR REVIEW
Jan. 20, 2015	NON-FINAL ACTION WRITTEN
Jan. 15, 2015	ASSIGNED TO EXAMINER
Jan. 03, 2015	APPLICATION FILING RECEIPT MAILED
Dec. 30, 2014	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED
Dec. 26, 2014	SN ASSIGNED FOR SECT 66A APPL FROM IB

International Registration Information (Section 66a)

International Registration Number:	1229156	**International Registration Date:**	Sep. 30, 2014
Priority Claimed Flag:	Yes	**Date of Section 67 Priority Claim:**	Jun. 20, 2014
Intl. Registration Status:	REQUEST FOR EXTENSION OF PROTECTION PROCESSED	**Date of International Registration Status:**	Dec. 26, 2014
Notification of Designation Date:	Dec. 25, 2014	**Date of Automatic Protection:**	Jun. 25, 2016
International Registration Renewal Date:	Sep. 30, 2024		
First Refusal Flag:	Yes		

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location:	PUBLICATION AND ISSUE SECTION	**Date in Location:**	Mar. 03, 2020

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Proceedings - Click to Load