

EDWARDS ANGELL PALMER & DODGE

Dashwood, 69 Old Broad Street, London EC2M 1QS, UK tel +44 (0)20 7583 4055 fax +44 (0)20 7353 7377 eapdlaw.com

By fax to: 00 33-955764040

MACARAJA
9, avenue Pierre Sangnier
F-94350 Villiers Sur Marne
France

For attention of Francis Faulhaber

5 January 2011

Our ref . MAPJRO\306187\6225

Dear Sirs

Without Prejudice

Apple Inc. and Opposition to Trade Mark Application No. 9285677 for MACARAJA in Classes 9, 41 and 42 in the name of MACARAJA in the European Union

We act for Apple Inc. ("Apple") in relation to the above mentioned matter.

Our Client's Reputation

As you are aware, Apple is the well-known creator and manufacturer of computer hardware, computer software, on-line wire-based goods, consumer electronic devices as well as computer and telecommunication services. Apple is also the owner of the well-known MAC Family of Marks.

Apple has extensively used and promoted the trade mark MAC since 1984. The trade mark MAC has been applied to a broad range of products such as computer systems, personal computers, computer operating software and peripherals, as well as related services. Over the years, Apple has grown its "MAC" family of trade marks to include, among other marks, MAC, MAC OS, .MAC SLIDES, MAC.COM and .MAC. In addition, the ground-breaking iMac range of computers was introduced in 1998.

The innovative designs and excellent quality of the MAC products and services have been recognised by the public, resulting in phenomenal sales worldwide. By virtue of Apple's extensive use, advertising and promotion of the MAC Family of Marks, these brands have achieved iconic status. Therefore, it is our opinion that the public would regard any trade mark comprising of, or containing the term MAC as forming part of Apple's family of MAC Trade Marks.

PCL2\13205542\1

BOSTON MA | FT. LAUDERDALE FL | HARTFORD CT | MADISON NJ | NEW YORK NY | NEWPORT BEACH CA | PROVIDENCE RI
STAMFORD CT | WASHINGTON DC | WEST PALM BEACH FL | WILMINGTON DE | LONDON UK | HONG KONG (ASSOCIATED OFFICE)

Edwards Angell Palmer & Dodge UK LLP is a limited liability partnership registered in England (registered number OC333092) and is regulated by the Solicitors Regulation Authority. A list of members' names and their professional qualifications may be inspected at our registered office, Dashwood, 69 Old Broad Street, London EC2M 1QS, UK.

EDWARDS ANGELL PALMER & DODGE

Page 2

Our Client's Earlier Rights

Our client owns numerous registrations worldwide for its MAC Family of Marks, including but not limited to the following:

1. CTM Registration No. 5112354 MAC in *inter alia* Classes 9, 41 and 42;
2. CTM Registration No. 2108223 MAC OS in Classes 9, 38 and 42; and
3. CTM Registration No. 963074 IMAC in *inter alia* Class 9.

Your CTM Application and French Registrations

Our client has used the MAC Family of Marks extensively for a very broad range of goods and services and has acquired a strong reputation in the MAC Family of Marks throughout the European Union, including in France. This is reflected in the trade mark registrations referred to above.

We are of the view that the Community Trade Mark Application No. 9285677 for MACARAJA (the "Application Mark") is confusingly similar to our client's earlier MAC Family of Marks. We note that you also own a French Registration for MACARAJA (No. 3709698) and a French Registration for MACARAJA SOFT (No. 3709666) (the "Registration Marks"). These marks are also confusingly similar to our client's MAC Family of Marks.

We note that both the Application Mark and the Registration Marks fully contain our client's distinctive and reputable MAC trade mark. Accordingly, the Application Mark and the Registration Marks would be regarded by the public as an extension of Apple's earlier MAC Family of Marks. In addition, the goods and services claimed under the Application Mark and the Registration Marks are identical/similar to those covered by Apple's earlier MAC Family of Marks. Therefore, there is an enhanced likelihood of confusion between the Application Mark, the Registration Marks and our client's MAC Family of Marks. We believe that the public will be confused into thinking that the goods and services provided under the Application Mark and the Registration Marks originate from Apple, or are provided with Apple's consent.

Our client is concerned that consumers who see your Application Mark and the Registration Marks are likely to make a link with our client's famous MAC Family of Marks. Our client is also of the view that due to its extensive reputation and goodwill in the MAC Family of Marks, the use of the Application Mark and the Registration Marks will take unfair advantage of, or be detrimental to, the distinctive character of our client's MAC Family of Marks.

Our Client's Request

In view of the above, Apple requests that you immediately:

1. Withdraw Community Trade Mark Application No. 9285677 for MACARAJA in its entirety;

EDWARDS ANGELL PALMER & DODGE

Page 3

2. Surrender French Trade Mark Registration No. 3709698 for MACARAJA in its entirety; and
3. Surrender French Trade Mark Registration No. 3709666 for MACARAJA SOFT in its entirety.

In addition, Apple requests that you return the attached Letter of Undertaking duly executed.

We look forward to receiving confirmation that the Application Mark has been withdrawn and the Registration Marks have been surrendered, together with the executed letter of undertaking, by close of business on 19 January 2011.

In the meantime, all our client's rights are reserved.

Yours faithfully



EDWARDS ANGELL PALMER & DODGE UK LLP

Enc. Letter of Undertaking

[TO BE TYPED ON THE LETTERHEAD OF MACARAJA]**Letter of Undertaking**

To: Apple Inc.
c/o Edwards Angell Palmer & Dodge UK LLP
Dashwood
69 Old Broad Street
London EC2M 1QS
United Kingdom

Date: [] January 2011

Dear Sirs

Apple Inc. and Opposition to Trade Mark Application No. 9285677 for MACARAJA in Classes 9, 41 and 42 in the name of MACARAJA in the European Union

In consideration of Apple Inc. ("Apple") withdrawing the opposition against CTM Application No. 9285677 and not filing cancellation actions against French Registration No. 3709698 for MACARAJA and French Registration No. 3709666 for MACARAJA SOFT or taking any further action against us, we undertake (whether acting on our own, or through our officers, servants or agents or any of them respectively or otherwise howsoever) forthwith:

1. That we shall immediately withdraw the Community Trade Mark Application No. 9285677 for MACARAJA in Classes 9, 41 and 42 (the "Application Mark") in its entirety and confirm to Edwards Angell Palmer & Dodge UK LLP in writing that this has been done;
2. That we shall immediately surrender French Trade Mark Registration No. 3709698 for MACARAJA and French Trade Mark Registration No. 3709666 for MACARAJA SOFT (the "Registration Marks") in their entirety and confirm to Edwards Angell Palmer & Dodge UK LLP in writing that this has been done;
3. That we shall immediately cease all use of the Application Mark and the Registration Marks and confirm to Edwards Angell Palmer & Dodge UK LLP in writing that this has been done;
4. That we shall not restart use of the Application Mark and the Registration Marks in the future;

5. That we shall not use and/or register the Application Mark, the Registration Marks and/or any other name or sign incorporating or being confusingly similar to the term MAC;
6. That we shall not object to the use and/or registration by Apple of any MAC and/or MAC formative marks;
7. That we shall not use and/or register any name or sign which is confusingly similar to any of Apple's Trade Marks;
8. That we shall procure that our assignees, successors in title or licensees comply with these undertakings as if such undertakings were expressed to be the undertakings of such assignees, successors in title or licensees;
9. That these undertakings are valid worldwide; and
10. That these undertakings shall be governed by and construed in accordance of the laws of England and Wales and we submit to the exclusive jurisdiction of the courts of England and Wales.

Yours faithfully

Signed on behalf of: **MACARAJA**

Name:

Position:

Date: