

# Intellectual Property Office of Singapore Case Summary: Swatch AG (Swatch SA) (Swatch Ltd) v Apple Inc. [2019] SGIPOS 1

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**Swatch AG (Swatch SA) (Swatch Ltd)** (the Opponent), opposes the registration of “IWATCH” for Class 9 goods including computers, computer hardware, computer peripherals and wireless communication devices.

One of the main grounds of opposition was Sections 8(2)(b) of the Trade Marks Act (Cap 332, 2005 Rev Ed). The Opponent relied on its following earlier marks, amongst others:

S/N	Opponent's Earlier Marks	
1	<b>Opponent's Earlier Unregistered SWATCH Mark</b>	Watches
	SWATCH	
2	<b>Opponent's Earlier Registered ISWATCH Mark</b>	<u>Class 14</u>
		Horological and chronometric instruments (among other goods).

To succeed under section 8(2), the Opponent had to establish that: (1) the Application Mark is similar to one of its earlier marks; (2) the goods applied for are similar to the goods for which the Opponent has protection; and (3) as a result, there is a likelihood of confusion.

On the issue of mark-similarity, it was found that, in comparison to the **Opponent's Earlier Unregistered SWATCH Mark**, the Application Mark is visually, aurally and conceptually more dissimilar than similar such that overall, the marks are dissimilar. On the other hand, in comparison to the **Opponent's Earlier Registered ISWATCH Mark**, the Application Mark is visually dissimilar, aurally similar and conceptually marginally similar such that overall, the marks are similar to a low extent.

With regard to similarity of goods, an interesting issue arose as to whether smart watches fell within the goods applied for by the Applicant. The Opponent argued that they were as smart watches are *effectively* wearable computers with wireless connectivity. Hence, they are encompassed within the descriptions “computers; computer hardware; computer peripherals; wireless communication devices.”

The Registrar disagreed and was instead of the view that the multitude of functions of a smart watch is simply *ancillary* to its core function of telling time such that the goods are more dissimilar than similar.

In any event, there was no likelihood of confusion since smart watches (even if they are covered by the application) tend to command a greater degree of fastidiousness and attention on the part of prospective purchasers as they are highly personal items which blend function and style. Consumers are therefore unlikely to be confused.

*Disclaimer: The above is provided to assist in the understanding of the Registrar's grounds of decision. It is not intended to be a substitute for the reasons of the Registrar. The full grounds of decision can be found at <https://www.ipos.gov.sg/docs/default-source/resources-library/hearings-and-mediation/legal-decisions/2019/swatch-v-apple-2019-sgipos-1.pdf>.*