Canadian Intellectual Property Office

THE REGISTRAR OF TRADEMARKS

Citation: 2026 TMOB 17

Date of Decision: 2026-01-30

IN THE MATTER OF A SECTION 45 PROCEEDING

Requesting Party: Merizzi Ramsbottom & Forster

Registered Owner: Beijing DiDi Infinity Technology Development Co., Ltd.

Registration: TMA1,048,149 for DIDI

INTRODUCTION

[1] At the request of Merizzi Ramsbottom & Forster (the Requesting Party), the Registrar of Trademarks issued a notice under section 45 of the *Trademarks Act*, RSC 1985, c T-13 (the Act), on September 16, 2024, to Beijing DiDi Infinity Technology Development Co., Ltd. (the Owner), the registered owner of registration No. TMA1,048,149 for the trademark DIDI (the Mark).

[2] The Mark is registered for use in association with various goods in the field of transportation software and electronics and numerous services in the fields of transportation, software as a service (SAAS), business management, marketing, financial services, motor vehicle maintenance and repair, research and development, bodyguard services, and social

networking. The full list of goods and services, grouped by their assigned Nice class, is reproduced at Schedule A to this decision.

[3] The notice required the Owner to show whether the Mark was used in Canada in association with each of the registered goods and services at any time within the three-year period immediately preceding the date of the notice. If the Mark was not so used, the Owner was required to provide the date when the Mark was last in use and the reasons for the absence of use since that date. In this case, the relevant period for showing use is September 16, 2021, to September 16, 2024.

[4] The relevant definitions of "use" are set out in sections 4(1) and 4(2) of the Act as follows:

> 4(1) A trademark is deemed to be used in association with goods if, at the time of the transfer of the property in or possession of the goods, in the normal course of trade, it is marked on the goods themselves or on the packages in which they are distributed or it is in any other manner so associated with the goods that notice of the association is then given to the person to whom the property or possession is transferred.
>
> 4(2) A trademark is deemed to be used in association with services if it is used or displayed in the performance or advertising of those services.

[5] With respect to services, the display of a trademark in advertising suffices to meet the requirements of section 4(2) of the Act as long as the owner is able and prepared to perform the services in Canada [*Wenward (Canada) Ltd v Dynaturf Co* (1976), 28 CPR (2d) 20 (TMOB)].

[6] Where a registered owner does not show use, the registration is liable to be expunged or amended pursuant to section 45(3) of the Act, unless the absence of use was due to special circumstances that excuse it.

[7] In response to the Registrar's notice, the Owner furnished the February 17, 2025, affidavit of Philippe Usannaz-Joris, a trademark paralegal

employed by the agents for the Owner. Only the Requesting Party filed written representations; an oral hearing was not held.

[8] For the reasons that follow, I conclude that the registration ought to be expunged.

THE OWNER'S EVIDENCE

[9] In his brief affidavit, Mr. Usannaz-Joris essentially furnishes screen captures of the following webpages and publications:

- The About Us page (undated) from the website at *web.didiglobal.com*, where the Mark is featured in a logo (the Logo) and as a trade name [Exhibit PUJ-1]. Mr. Usannaz-Joris flags the following text:

  > Didi Global Inc. is a leading mobility technology platform. It offers a wide range of app-based services across Asia Pacific, Latin America, and other global markets, including ride hailing, taxi hailing, designated driving, hitch and other forms of shared mobility as well as certain energy and vehicle services, food delivery, and intra-city freight services.

  Mr. Usannaz-Joris identifies this website as being the Owner's; however, the exhibited webpage is about Didi Global Inc. and the Owner's name is not mentioned. I also note that the webpage's list of countries served by the mobility platform—"in food delivery, mobility, financial services and more"— does not include Canada.

- An Apple App Store Preview page from 2025, for a "DiDi-Rider" ride-hailing mobile app provided by DiDi Mobility Information Technology Pte. Ltd., and Google Play pages from 2025 and 2024 respectively, for a "Didi-Rider" mobile app and a "Didi Fleet" mobile app for building motor pools, provided by DiDi Global [Exhibit PUJ-2]. Each webpage also mentions the availability of a "DiDi Food" delivery app from the same provider. The Mark is displayed on each page as a name for the

apps and either in the Logo or as a trade name. However, I note that the App Store page is a Hong Kong version. Also, despite the Google Play pages being French Canada versions, some of the product information is displayed in a language other than English or French and, of the two posted customer reviews with location information, one references payment in Egyptian pounds and the other references services in Mexico.

- Six news articles published online that, according to Mr. Usannaz-Joris, "mention the DIDI trademark including Didi's launch announcement in Canada" [Exhibit PUJ-3]:

  - The FinSMEs article "Didi Chuxing Launches DiDi Labs in Toronto" published at *www.finsmes.com* on November 23, 2018, announcing (i) a new research facility focussing on intelligent driving and artificial intelligence and (ii) a strategic partnership with the University of Toronto to explore collaborative projects in "areas ranging from vehicle connectivity and autonomy, to artificial intelligence and smart transportation". Didi Chuxing is described as a provider of app-based transportation services in Brazil, Mexico, Australia, Japan, and China. I note the article also mentions the company's DiDi Labs research facility in California investing in product development and technology for *its own* operations.

  - The article "China's largest ride-hailing firm launches research lab in Toronto" published at *www.ctvnews.ca* on November 19, 2018, with information similar to that of the FinSMEs article.

  - The article "Didi in Toronto: Strategic partnership initiative with U of T" published at *uttri.utoronto.ca* on November 22, 2018, announcing a research partnership with a four-year term between

Didi Chuxing Technology Company and the University of Toronto. An accompanying photograph shows the Logo displayed on signage for the November 19, 2022, signing ceremony.

- The company profile "Didi Chuxing Driving the future of mobility" published at *time.com* on April 26, 2021, as part of the feature "2021 TIME100 Most Influential Companies". It mentions Didi Chuxing's nickname "China's Uber", its taxis in Shanghai, and its acceptance of mobile payments in Latin America.

- The Financial Times article "Top 100 global brands 2019: the full ranking" published at *www.ft.com* on June 11, 2019, which mentions Didi Chuxing ranking 71st in the BrandZ ranking of the world's most valuable brands.

- The article "DiDi Wins Google Play Best App Award for Mexico" published at *www.didiglobal.com* on December 7, 2018, referring to an award in the "Best Hidden Gem" category for new apps won by DiDi Global's "Didi Rider" app. The exhibited webpage displays a variation of the Logo in the top left corner.

[10] Mr. Usannaz-Joris does not indicate how he obtained the foregoing screen captures or how and why they were selected for his affidavit.

ANALYSIS

[11] At the outset, I note that Mr. Usannaz-Joris does not specify whether he has personal knowledge regarding use of the Mark, and there is no indication that he was at any time personally involved in the Owner's activities or had access to its business records. Nor does he even indicate whether he has personal knowledge of the existence and location of the

webpages attached to his affidavit, or whether he would be in a position to confirm the accuracy of the webpages' contents.

[12] In any event, hearsay issues aside, I agree with the Requesting Party that the evidence does not show use of the Mark in Canada during the relevant period.

[13] First, none of the furnished webpages demonstrates an actual sale or transfer of one of the apps or other goods in Canada, as required by section 4(1) of the Act.

[14] Second, promotional material posted online must be "distributed to" or accessed by prospective customers in order to constitute advertising [*Cornerstone Securities Canada Inc v Canada (Registrar of Trade Marks)* (1994), 58 CPR (3d) 417 (FCTD); see also *Investment Planning Counsel Inc v Equitable Life Insurance Company of Canada*, 2015 TMOB 74; and *Ridout & Maybee LLP v Residential Income Fund LP*, 2015 TMOB 185]. In the present case, Mr. Usannaz-Joris provides no evidence that Canadians ever accessed any of the webpages referencing services in association with the Mark, nor any evidence regarding Canadians actually availing themselves of the services, from which inferences favourable to the Owner might be drawn. Indeed, none of the webpages indicates that any of the referenced services were even available to be performed in Canada during the relevant period, as required for trademark use in association with services under section 4(2) of the Act.

[15] In this respect, although it appears the term of the research partnership with the University of Toronto was supposed to extend into the relevant period, the furnished webpages do not confirm whether the agreement remained in good standing up to that time, and more recent evidence was not provided in this regard. The furnished webpages also fail

to specify whether any research that might have been conducted by the Owner at DiDi Labs in Toronto during the relevant period would have been for other parties or only for its own benefit. An activity must offer a tangible and meaningful benefit to the public, consumers, or purchasers for it to be considered a service [*Live! Holdings, LLC v Oyen Wiggs Green & Mutala LLP*, 2019 FC 1042, aff'd 2020 FCA 120].

[16] Moreover, Mr. Usannaz-Joris's affidavit does not explain how activities by other entities such as Didi Global Inc., DiDi Mobility Information Technology Pte. Ltd., or Didi Chuxing Technology Company might inure to the Owner's benefit. When a trademark owner seeks to benefit from the use made of its trademark by another party, the trademark owner must demonstrate that it controlled the character or quality of the associated goods and services, or that public notice was given of it having licensed this use of its trademark [per section 50 of the Act]. A corporate relationship alone is insufficient to establish use accruing to the owner's benefit [*Live!*, *supra*]. In this case, there is no evidence the Owner licensed the Mark or exercised the requisite control: no express statement of such control; no facts demonstrating the existence of such control; and no suggestion of any licence agreement providing for such control [per the methods of demonstrating control set out in *Empresa Cubana Del Tabaco Trading v Shapiro Cohen,* 2011 FC 102].

[17] I would also note that there may be an issue as to whether display of a variation of the Mark such as "DiDi Labs" would constitute display of the Mark as registered, and whether the Mark as shown in the photograph from the signing ceremony is displayed as a trademark—in association with services—or only as a trade name, identifying a party to the partnership agreement. However, in light of my comments above, it is not necessary to address these issues.

[18] In sum, I am not satisfied that the Owner has demonstrated use of the Mark in association with any of the registered goods or services within the meaning of sections 4 and 45 of the Act. Furthermore, there is no evidence before me of special circumstances excusing the absence of such use.

DISPOSITION

[19] In view of all of the foregoing, pursuant to the authority delegated to me under section 63(3) of the Act, and in compliance with the provisions of section 45 of the Act, the registration will be expunged.

Oksana Osadchuk
Member
Trademarks Opposition Board
Canadian Intellectual Property Office

SCHEDULE A

Registered goods (Nice class & Statement)

9 Computer software and mobile application software for car sharing and car hire services; mobile application software for automated scheduling and dispatch of motor vehicles; computer software and mobile application software for coordinating transportation services; computer software and mobile application software for engaging transportation services; computer software and mobile application software for use by motorized vehicle operators and passengers and potential passengers for ridesharing; audio-video receivers; downloadable image file containing artwork, text, audio clips, video clips, computer games and internet web links relating to sporting and cultural activities; global positioning system (GPS) consisting of computers, computer software, transmitters, receivers, and network interface devices; megaphones; digital audio recorders and players; car video recorders; video telephones.

Registered services (Nice class & Statement)

35 Business administration in the field of transport and delivery; business management services in the field of transport and delivery; business management consulting services in the field of transportation and delivery; on-line advertising for others on computer networks; pay per click advertising for others on computer networks; rental of advertising time on communication media; promoting the sale of goods and services of others by awarding purchase points; Business management consultancy services; business information services in the field of travelling; compilation and systemization of information into computer databases; conducting marketing studies; marketing services in the field of arranging for the distribution of the products of others; providing an on-line commercial information directory on the internet.

36 Insurance consultancy; financial analysis consultation services; financial evaluation for insurance purposes; financial appraisals; financial asset management; financial credit scoring services; financial exchange of data between financial institutions and their clients; art appraisal; real estate management; financial investment brokerage services; insurance brokerage; life insurance brokerage; mortgage brokerage; surety services; charitable fund raising; trusteeship; lending against security.

37 Motor vehicle maintenance and repair; vehicle washing; vehicle fueling services; vehicle repair consultation; vehicle maintenance consultation; vehicle polishing; refueling and lubrication services for vehicles and equipment; vehicle painting; vehicle undercoating services; anti-rust treatment of vehicles; custom rebuilding of existing land vehicles and structural parts therefor.

39 Providing a website featuring information regarding passenger transportation services and bookings for transportation services; arranging for transportation by vehicle; carpooling services, namely, matching drivers of motor vehicles with individuals needing rides; chauffeur services; taxi transport; car transport; car rental; traffic information; transport brokerage; transport of travelers by air, rail or motor vehicles, namely cars, motor coaches, taxis; information services in the field of transportation of goods and persons by air, ground and sea; reservation and booking of seats for travel; travel route planning.

42 Software as a service (SAAS) featuring software for transportation services, namely, software for scheduling taxi services, carpooling services and chauffeur services; software as a service (SAAS) featuring software for transportation services, namely, software for sending SMS messages, and push-notifications to local taxis and third-party motorized vehicles in the vicinity of the caller using mobile phones; providing temporary use of online non-downloadable software for providing transportation and delivery services, bookings for transportation and delivery services and for dispatching motorized vehicles to customers; design and development of computer software; providing temporary use of online non-downloadable software for use by motorized vehicle operators and passengers and potential passengers for ridesharing; computer programming; maintenance of computer software; computer software consultancy; consulting services in the field of cloud computing; consulting services on computers and computer networks technology; installation of computer software; monitoring of computer systems by remote access to ensure proper functioning; research and development of new products for others.

45 Bodyguard services; escort services; on-line social networking services.

Appearances and Agents of Record

No hearing held

AGENTS OF RECORD

For the Requesting Party: Merizzi Ramsbottom & Forster

For the Registered Owner: Robic Agence PI S.E.C./ Robic IP Agency LP