

ALFONSO ANGGALA,
Opposer,
- versus -

IPC No. 14-2004-00085

Opposition to:

Appln Serial No. 4-2002-009790
Date filed: 14 November 2002

RENO (THAILAND) CO., LTD,
Respondent-Applicant.

TM: "AIIZ"

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RENO (THAILAND) CO., LTD,
Opposer,
- versus -

IPC No. 14-2005-00050

Opposition to:

Appln Serial No. 4-2002-007611
Date filed: 09 September 2002

ALFONSO ANGGALA,
Respondent-Applicant.

TM: "A T O Z"

x-----x

Decision No. 2007-121

DECISION

For decision is the Notice of Opposition filed on 21 June 2004 docketed as Inter Partes Case No. 14-2004-00085, filed by Alfonso Anggala, with address at 65 Basilio corner Ibarra streets, Acacia, Malabon City against Reno (Thailand) Co., Ltd's, (hereinafter referred to as "Reno Co.") a company organized under the laws of Thailand, with address at 1/11-13 Soi Ekmai 2, Sukhumvit 63, Prakanong, Bangkok10110, Thailand, against Application Serial No. 4-2002-009790 filed on 14 November2002 for registration of the mark "AIIZ" for goods under Class 25 namely: "shirt, T-shirts, jackets, pants, skirts, Shoes, knits, socks, underwear, hats, neckties" based on the ground that Alfonso Anggala will be damage by the application for registration on the grounds that the registration of the trademark AIIZ in Class 25 in favor of the Respondent-Applicant violets the existing prior rights of the Opposer over his the Opposer as early as September 9, 2002 Application No. 4-2002-007611.

Alfonso Anggala submitted a copy of his trademark application for the mark "A to Z" with filing date September 9, 2002 as its documentary evidence.

In its Answer, Reno Co., Ltd., raised the following affirmative allegations and Defenses:

- "3.1 Respondent-Applicant is the lawful proprietor of the "AIIZ" trademark and other marks related thereto which is has used in many countries around the world in connection with goods in Classes 25 such as shirts, t-shirt, jackets, pants, skirts, shoes, knits, socks underwear, hats and neckties since 09 December 1993. The Respondent-Applicant first obtained registration for its "AIIZ" Trademark in Thailand for goods in Classes 5. The Respondent-Applicant also obtained the following registrations in Thailand: (a) For the mark "AIIZ"; in Class 14, (b) for the mark "AIIZ XII" in Class 14,(c) for the mark "AIIZ XII" in Class 18, and for the mark "AIIZ" in Class 3.

- "3.2 Respondent-Applicant's "AIIZ" trademark and other marks related thereto are well known not only in Thailand but also in many countries throughout the world. In fact, Respondent-applicant has registered the "AIIZ" trademark and other marks related thereto in various countries in Asia and in the Middle East, particularly in China, Malaysia, Singapore, Hong Kong, Indonesia, Taiwan, Myanmar, Saudi Arabia, Jordan Lebanon, United Arab Emirates, Brunei, Vietnam, Laos and Colombia.
- "3.3 Respondent-Applicant also has pending applicant for the "AIIZ" Trademark and other related marks around the world. More specifically, the Respondent-Applicant has filed applications for Registration of the mark "AIIZ" and other related marks in Cyprus, Brazil, Pakistan, India, Bahrain, Iran, Qatar, Japan, Israel, Sri Lanka, Oman, Russia, Australia, Turkey, South Korea, Egypt, Nepal, Mexico and Yemen.
- "3.4 As a lawful exercise of its ownership over the "AIIZ" trademark, The Respondent-Applicant filed a trademark application for the Trademark "AIIZ" on 14 November 2002 in the Philippines. The trademark application was assigned Application No. 4-2002-0009790 and covered goods in Class 25, namely, shirts, t-shirts, jackets, pants, skirts, socks, underwear, hats and neckties. The Respondent-Applicant also filed an application for Registration of the mark "AIIZ XII" on 14 November 2002 in the Philippines. This trademark application was assigned Application No. 4-2002-0009791 and also covered goods in Class 25, namely, shirt, t-shirts, jackets, pants, skirts, shoes, knits, socks, Underwear, hats and neckties.
- "3.5 Significantly, the Respondent-Applicant has continuously marketed and advertised goods bearing the trademark "AIIZ" in Class 25 all over the world. It is also presently negotiating a local Distributorship contract in the Philippines with the end in view of extending its market thereto.
- "3.6 Because of the Respondent-Applicant's extensive use of the trademark "AIIZ" and other marks related in Various countries in connection with goods in Class 25, namely, Shirt, t-shirts, jackets, pants, skirts, shoes, knits, socks, Underwear, hats and neckties, a relevant sector of the purchasing public has come to identify the trademark "AIIZ" with the Respondent-Applicant. Due to the Respondent-Applicant's efforts, the trademark "AIIZ" has been associated by the public with quality Shirt, t-shirts, jackets, pants, skirts, shoes, knits, socks, Underwear, hats and neckties.
- "3.7 In his Opposition, Opposer claims that he will be damage by the Respondent-Applicant's application for registration of the trademark "AIIZ" on the ground that it violates his existing prior rights over the trademark "A T O Z". More specifically, Opposer in Paragraph No. 2 of his Opposition claims that his application for the trademark "A to Z" was filed much earlier that that of the Respondent-Applicant.
- "3.8 Contrary to Opposer's claim, however, the filing of an earlier application does not per se give rise to "prior rights" as would justify an Opposition to, as well as the denial of, the Respondent-Applicant's application for registration of the mark "AIIZ". The records will show that the Respondent-Applicant had already application does not per se give rise to "prior rights" as would justify an Opposition to, as well as denial of, the Respondent-Applicant's Application for registration of the mark "AIIZ" established the Goodwill and reputation of its products bearing the mark "AIIZ" even before 09 September 2002, when the Opposer filed his application for the mark "A T O Z", in other words, Respondent-Applicant's trademark "AIIZ" is a well-known mark under Section 123.1 (e) of the Intellectual Property Code, Article 16 (1) and (2) of the Agreement on Trade

Related Aspects of Intellectual Property Rights and Article 6bis of the Paris Convention.

Reno Co. submitted the following documentary evidence, in support of its defense:

- Exhibit "1" Respondent's trademark application for the mark "AIIZ" filed on November 14, 2002
- Exhibit "2" Labels used
- Exhibit "3" Certificates of Registration in various countries

On May 18, 2005, Reno (Thailand) Co. Ltd. Filed its Notice of Opposition docketed as Inter Partes Case No. 14-2005-00050 against Application Serial No. 4-2002-007611, filed on September 9, 2002 by Alfonso Anggala for registration of the mark "A TO Z" for goods under class 18, namely: 'wallet, coin purse, traveling luggage, suitcase, traveling cases, attaché cases, school bags, clutch bags, overnight bags, pilot cases and class 25, namely: "T-shirts, polo, polo shirts, pants, jeans, slacks, jackets, briefs, panties, belts, caps, suspender, socks, sweatshirts, joggings suits, swimming trunks, swimsuits, shorts, stockings, blouses, skirts, shoes, slippers, sandals, boots". The opposition of Reno Co. is based on the following grounds:

- '1. Opposer is the true owner and rightful proprietor of the internationally known trademark "AIIZ" and other marks related thereto which it has used in many countries around the world in connection with goods in Class 25 such as Shirt, t-shirts, jackets, pants, skirts, shoes, knits, socks, Underwear, hats and neckties since 08 December 1993. Attached are copies of specimen labels the "AIIZ" trademark as required under the Rules.
- '2. As the owner of the "AIIZ" trademark. Opposer first obtained Registration for its "AIIZ" trademark in Thailand for goods in Class 2. The Opposer also obtained the following registrations in Thailand: for the mark "AIIZ" in Class 14; (b) for the mark "AIIZ XII" in class 14; (c) for the mark "AIIZ" in Class 18; and (d) for the mark "AIIZ" in Class 3.
- '3. Opposer's "AIIZ" trademark and other marks related thereto are well known not only in Thailand but also in many countries throughout the world. In fact, Opposer has registered the "AIIZ" Asia and the other marks related thereto in various countries in Singapore, Hong Kong, Indonesia, Taiwan, Myanmar, Saudi Arabia, Jordan, Lebanon, United Arab Emirates, Brunei, Vietnam, Laos and Colombia.
- '4. Opposer also has pending application for the "AIIZ" trademark and other related marks around the world. More specifically, the Opposer has filed applications for registration of the mark "AIIZ" And other related marks in Cyprus, Brazil, Pakistan, India, Bahrain, Iran, Qatar, Japan, Israel, Sri Lanka, Oman, Russia, Australia, Turkey, South Korea, Egypt, Nepal, Mexico and Yemen.
- '5. Opposer maintains worldwide and extensive advertising and promotional campaigns for its goods bearing the "AIIZ" trademark worldwide it is also presently negotiating a local distributorship contract in the Philippines with the end view of extending its market thereto.
- '6. Opposer continuously used the "AIIZ" trademark worldwide since 19 march 1992.
- '7. By reason of Opposer's worldwide and continuous registration, advertising campaign and used of the "AIIZ" trademark in connection with goods in Class 25, namely "Shirt, t-shirts, jackets, pants, skirts, shoes, knits, socks, Underwear, hats

and neckties". A relevant sector of the purchasing has come to identify the trademark "AIIZ" has with Opposer. Due to Opposer's with quality Shirt, t-shirts, jackets, pants, skirts, shoes, knits, socks, underwear, hats and neckties.

- '8. On 14 October 2002, Opposer filed with the IPO a trademark application for the registration of the trademark "AIIZ" as a lawful Exercise of its ownership over said mark, the trademark Application was assigned Application No. 4-2002-0009790 and covered goods in Class 25, namely: "Shirt, t-shirts, jackets, pants, skirts, shoes, knits, socks, Underwear, hats and neckties. Opposer also filed an application for registration of the mark "AIIZ XII" on 14 November 2002 in the Philippines. This trademark application was assigned Application No. 4-2002-0009791 and also covered goods in Class 25, namely Shirt, t-shirts, jackets, pants, skirts, shoes, knits, socks, Underwear, hats and neckties.
- '9. The registration and use by the Respondent-Applicant of the trademark "A T O Z" would tend to falsely suggest a connection with Opposer.
- '10. The registration and use of the trademark "A T O Z" will also diminish the distinctiveness and dilute the goodwill associated with Opposer's "AIIZ" trademark which have become distinctive for and practically synonymous with, the goods and products manufactured and sold by the Opposer all over the world. Furthermore, the Registration and use of the trademark "A T O Z" will cause in calculable damage to the reputation of the Opposer and general business standing.
- '11. The use and adoption by Respondent-Applicant of the trademark "A T O Z" which is confusingly similar, and tends to falsely suggest a connection with Opposer's "AIIZ" trademark and other related marks, constitute an unlawful appropriation of an internationally known mark. Accordingly, Application No. 4-2002-007611 filed by Respondent-Applicant for the registration of the trademark "A T O Z" is in violation of Section 123 (e) of the Intellectual Property Code (Republic Act No. 8293), and Article 16 (1) and (2) of the

Reno Co. submitted the following documentary evidence in support of its Opposition:

Annex "A" and "B"	Copy of specimen label of "AIIZ" A photocopy of the Certificate of Registration for the mark "AIIZ" in Thailand (Class 25)
Annex "B"	A photocopy of the Certificate of Registration for the mark "AIIZ" in Thailand (Class 14)
Annex "C"	A photocopy of the Certificate of Registration for the mark "AIIZ XII" in Thailand (Class 14)
Annex "D"	A photocopy of the Certificate of Registration for the mark "AIIZ XII" in Thailand (Class 14)
Annex "E" - "F"	A photocopy of the Certificate of Registration for the mark "AIIZ" in Thailand (Class 18 & 3)
Annex "G"	A photocopy of a list of countries where The Respondent-Applicant has been Issued Certificates of Registration for The trademark "AIIZ" and other marks Related thereto together with the

	Particulars
Annex "H"	A photocopy of the Certificate of Registration for the mark "AIIZ" in China Bearing Registration No. 00697316
Annex "I"	A photocopy of the Renewal Certificate For the mark "AIIZ" (bearing Trademark No. 94010961) in Malaysia
	A photocopy of the Certificate of Registration for the mark "AIIZ" in Malaysia
Annex "J"	A photocopy of the Certificate of Registration for the mark "AIIZ" in Singapore (bearing Trademark No. B10331/94
Annex "K"	A photocopy of the Renewal of Certificate for the mark "AIIZ" (bearing Trademark No. B02490 of 1997) in Hong Kong
Annex "L"	A photocopy of the Certificate of Registration for the mark "AIIZ" in Indonesia
	A photocopy of the Certificate of Registration for the mark "AIIZ" in Hong Kong
Annex "M"	A photocopy of the Certificate of Registration for the mark "AIIZ" in Taiwan
Annex "N"	A photocopy of the Certificate of Registration for the mark "AIIZ" in Myanmar
Annex "O"	A photocopy of the Certificate of Registration for the mark "AIIZ" design (black and white)" in Saudi Arabia (bearing Registration No. 601/43
	A photocopy of the Certificate of Registration for the mark "AIIZ" (design In color)" Saudi Arabia (bearing Registration No. 601/44).
Annex "P"	A photocopy of the Certificate of Registration for the mark "AIIZ" in Jordan (bearing Reference No. 58484).
Annex "Q"	A photocopy of the Certificate of Registration for the mark "AIIZ" in Lebanon (bearing Trademark No. 83019
	A photocopy of the Certificate of Registration for the mark "AIIZ XII" in Color" in Lebanon(bearing Trademark No. 83020
Annex "R"	A photocopy of the Certificate of Registration for the mark "AIIZ" in United Arab Emirates
	A photocopy of the Certificate of Registration for the mark "AIIZ XII" in Color" in United Arab Emirates.

Annex "S"	A photocopy of the Brunei Darussalam Emergency (Trade Marks) Order 1999
Annex "T"	A photocopy of the Certificate of Registration for the mark "AIIZ" in Vietnam (bearing Certificate No. 17441).
Annex "U"	A photocopy of the Certificate of Registration for the mark "AIIZ" in Laos (Bearing Certificate No. 3502).
Annex "V"	A photocopy of the Renewal Certificate For the mark "AIIZ" in Cambodia.
	A photocopy of the Certificate of Registration for the mark "AIIZ" in Cambodia (bearing Registration No. KH 5280) with affidavit of Use/Non-use.
Annex "W"	A photocopy of the list of countries Where Respondent-Applicant has Pending applications for registration of The mark "AIIZ" and other related marks
Annex "X"	A photocopy of the Certificate of Registration for the mark "AIIZ" in Cyprus.
	A photocopy of the Certificate of Registration for the mark "AIIZ XII" in Cyprus.
Annex "Y"	A photocopy of the Certificate of Registration for the mark "AIIZ" in Brazil.
	A photocopy of the Certificate of Registration for the mark "AIIZ XII" in Brazil.
Annex "Z"	A photocopy of the Certificate of Registration for the mark "AIIZ" in Pakistan.
	A photocopy of the Certificate of Registration for the mark "AIIZ XII" in Pakistan.
Annex "AA"	A photocopy of Application for the Registration of the mark "AIIZ" in India
Annex "BB"	A photocopy of the filing report on the Application for Registration of the Marks "AIIZ" and "AIIZ XII" in Bahrain.
Annex "CC"	A photocopy of the filing report on the Application for Registration of the Marks "AIIZ" in Iran
Annex "DD"	A photocopy of the filing report on the Application for Registration of the Marks "AIIZ" in Qatar
Annex "EE"	A photocopy of the Application for the Registration of the Marks "AIIZ" in Japan.
Annex "FF"	A photocopy of the Application for the Registration of the mark "AIIZ" in Israel.
Annex "GG"	A photocopy of the Application for the Registration of the mark "AIIZ" in Sri Lanka
Annex "HH"	A photocopy of the filing report on the Application for Registration of the Marks "AIIZ" in Oman.

Annex "II"	A photocopy of the Application for the Registration of the mark "AIIZ" in Russia
Annex "JJ"	A photocopy of the Application for the Registration of the mark "AIIZ" in Australia
Annex "KK"	A photocopy of the Application for the Registration of the mark "AIIZ" in Turkey
Annex "LL"	A photocopy of the filing report on the Application for Registration of the Marks "AIIZ" in South Korea.
Annex "MM"	A photocopy of the filing report on the Application for Registration of the Marks "AIIZ" in Egypt.
Annex "NN"	A photocopy of the filing report on the Application for Registration of the Marks "AIIZ" in Nepal.
Annex "OO"	A photocopy of the filing report on the Application for Registration of the Marks "AIIZ" in Mexico
Annex "PP"	A photocopy of the filing report on the Application for Registration of the Marks "AIIZ" in Yemen.
Annex "QQ"- Annex "RR"	Photographs showing marketing, Invoices and bill of ladings, photocopy Of the Respondent-Applicant's Trademark Application for the marks "AIIZ" in the Philippines
Annex "SS"	A photocopy of the Respondent-Applicant's trademark Application for The mark "AIIZ XII" in the Philippines

In its Answer, Alfonso Anggala raised the following affirmative defense:

- "1. The marks "A to Z" or "A II Z" cannot be considered an internationally known mark in favor of opposer.
2. The owner of the said marks in the Philippines for goods and Services under Class 25, 18 and 42 is Respondent-Applicant being the first entity to have an application for Registration of the said mark and the first to have actually used the same mark in Commerce in this country.
3. It is also manifested that Respondent-Applicant Alfonso Anggala filed an opposition to the mark "AIIZ" in the name of Reno (Thailand) Co., Inc. under application no. 4-2002-9790 and docketed as Inter Partes Case No. 14-2004-00085.

In support of its Answer, Alfonso Anggala marked the following as Exhibits:

- Exhibit "1" Answer
Exhibit "2" Affidavit of Alfonso Anggala
Exhibit "2.1" Declaration of Actual Use
Exhibit "2.2" Picture of mark

In the meantime on, 31 August 2005, Reno. Co. filed a motion to consolidate praying that the IPC Case No. 14-2004-00085 be consolidated with IPC Case No. 14-2005-00050 which was granted under Order No. 2005-744Dated September 20, 2005.

The parties availed of mediation proceedings but no amicable settlement was reached by the parties. Both cases were set for preliminary conference, however, for failure of Alfonso Anggala and/or counsel to appear, Reno Co. was ordered to submit its position paper.

The crux of the controversy is who between Reno Co. and Alfonso Anggala is the owner of the mark "AIZ" and is Alfonso Anggala entitled to register the mark "AIZ". The Bureau shall also determine whether "AIZ" is a well known mark

The marks being applied for registration by both parties are reproduced hereunder for reference:



Reno Co.'s mark



Alfonso Anggala's mark

Reno & Co. asserts that it is a well-known mark, and being the owner and user of the mark "AIZ", it seeks to prevent Alfonso Anggala application for the mark "A" to "Z" use for goods under Class 25. Evidence show that Reno & Co. has secured Registration for the trademark "AIZ" in several countries abroad (Annex "B" to "PP") namely, Thailand, Yemen, Brazil, Jordan, Lebanon, China, Malaysia, Hong-Kong, Saudi Arabia, Egypt, Oman, Vietnam to name a few. It has presented evidence of commercial sales abroad in the form of bills of lading, invoices, photographs of stores and samples of its labels. (Annex "A" and "QQ" with sub markings). Undoubtedly Reno & Co. has owned, adopted and used the mark "AIZ" abroad. In the Philippines, Its use is limited to sales in outlet of Mr. Felix Glorioso E. Saavedra at Block 8, Lot 18 Iliang St. Makati City as seen from the Declaration of Actual Use filed on December 13, 2005 with first use on September 28, 2004. Attached there with is an invoice showing a shipment of goods from Thailand dated September 27, 2004. While the Mark seems to enjoy some from of popularity in some countries where it may be sold, the record does not prove fame to warrant a finding that it is well known. Its use in the Philippines is likewise insufficient for the Bureau to make a determination that it is well known by the standards set under the law.

Republic Act 8293 provides:

x x x

(e) Is identical with, or confusing similar to, or constitutes a Translation of a mark which is considered by the competent Authority of the Philippines, to be well-known internationally and in The Philippines, whether or not it is registered here, as being Already the mark of a person other than the applicant for Registration, and used for identical or similar goods or services: Provided, That in determining whether a mark is well-known, Account shall be taken of the knowledge of the relevant sector of The public, rather than of the public at large, including knowledge in The Philippines which has been obtained as a result of the Promotion of the mark;

Rule 102 of the Rules and Regulations on Trademarks, Service Marks, Trade Names and Marked or Stamped Containers provides:

“RULE 102. Criteria for determining whether a mark is well-known.- In determining whether a mark is well-known, the following criteria or any combination thereof may be taken into account:

- a) the duration, extent and geographical area of any use of the mark, in particular, the duration, extent and geographical area of any promotion of the mark, including advertising or publicity and the presentation, at fairs or exhibitions, of the goods and/or services to which the mark applies;
- b) the market share, in the Philippines and in other countries, of the goods, and/or services to which the mark applies;
- c) the degree of the inherent or acquired distinction of the mark
- d) the quality-image or reputation acquired by the mark;
- e) the extent to which the mark has been registered in the world;
- f) the exclusivity of registration attained by the mark in the world;
- g) the extent to which the mark has been used in the world
- h) the exclusivity of use attained by the mark in the world
- i) the commercial value attributed to the mark in the world
- j) the record of successful protection of the rights in the mark
- k) the outcome of litigations dealing with the issue of whether the mark is a well-known mark; and
- l) the presence or absence of identical or similar marks validly registered for or used on identical or similar goods or services owned by persons other than the person claiming that his mark is a well-known mark.”

Be that as it may, Reno & Co. has proven that it is the owner of the mark “AIIZ” And has basis to oppose the application for registration by Alfonso Anggala of the mark “AIIZ”. The mark “AIIZ” can be argued to be different from “AIIZ”. The mark “AIIZ” is written in a stylized way, in that the letters “A and Z” are written in block form while The Roman Numeral “II” appears as background to the two letters. However, when the Mark is pronounced or read, it sounds exactly like Alfonso Anggala’s mark “A to Z”. In that sense, Alfonso Anggala’s mark is confusingly similar to Reno & Co.’s mark.

The Supreme Court in Etepha v. Director of Patents and Westmont Pharmaceuticals, Inc., No. L-20635, March 31, 1966 defines colorable imitation, it held:

“The validity of a cause for infringement is predicated upon colorable imitation. The phrase “colorable imitation” denotes such “close or ingenious imitation as to the calculated to deceive ordinary persons, or such a resemblance to the original as to deceive an ordinary purchaser giving such attention as a purchaser usually gives, and to cause him to purchase one supposing it to be the other.”

x x x

Confusion is likely between trademarks only if their over-all presentations in any of the particulars of sound, appearance, or meaning are such as would lead the purchasing public into believing that the products to which the marks are applied emanate from the same source.”

Likewise in the case of American Wire & Cable Co. vs. Director of Patents, 31 SCRA 544, the Supreme Court held:

“The question is, when is a trademark likely to confuse or to cause the Public to mistake one for another. Earlier rulings of the Court seem to indicate its reliance on the dominance test or the assessment of the essential or dominant features in the competing labels to determine whether they are confusingly similar. xxx

In fact, even their similarity in sound is taken into consideration, where the marks refer to merchandise of the same descriptive properties, for the Reason that trade idem sonans constitutes violation of trade mark patents.

Applying the above precepts to the instant case, the use by Alfonso Anggala of The "A to Z" mark will result to a likelihood of confusion on the part of the buying public Given that both mark are to be applied to goods under Class 25. Alfonso Anggala also applied for the same mark for goods under Class 18. This cannot likewise be allowed given that goods under Class 18 are related to clothing goods under Class 25.

The Supreme Court in mighty Corporation and La Campana Fabrica de Tabaco, Inc. vs. E. and J. Gallo Winery and the Andressons Group, Inc., G.R. No. 154342. July 14, 2004, enumerated the criteria for determining whether the goods are related. It held:

In resolving whether goods are related, several factors come into play:

- (a) the business (and its location) to which the goods belong
- (b) the class of product to which the goods belong
- (c) the product's quality, quantity, or size, including the nature of the package, wrapper or container
- (d) the nature and cost of the articles
- (e) the descriptive properties, physical attributes or essential characteristics with reference to their form, composition, texture or quality
- (f) the purpose oh the goods
- (g) whether the article is bought for immediate consumption, that is day-to-day household items
- (h) the fields of manufacture
- (i) the conditions under which the article is usually purchased 103 and
- (j) the channels of trade through which goods flow, how they are distributed, marketed, displayed and sold.

Notwithstanding Alfonso Anggala's earlier filing of an application for the mark A to Z, the same cannot be given due course on the ground that Section 122 of R.A.8293 presupposes that the person who files the application is the owner of the mark.

This Bureau cannot simply ignore the seemingly fraudulent use by Alfonso Anggala of the mark of Reno & Co., which is AIZ. The records glaringly show that while Alfonso Anggala applied for the registration of the mark A to Z, he attached in his declaration of actual use (Exhibit "2") as evidence of use a photograph which depicts the mark of Reno & Co, the "AIZ" mark and not mark he is applying for , "AIZ". It behooves us that Alfonso Anggala insists on using the mark of the person he is opposing, not his own mark. This can only mean that he has no intention to use "A to Z" but rather appropriate the mark of Reno & Co., "AIZ" as his own knowing fully well that he is not the originator or creator of the 'AIZ' mark. Not only did Alfonso Anggala apply for a mark that is confusingly similar to Reno & Co's mark. He arrogated unto himself the use of Reno & Co.'s exact and identical mark on his goods. This cannot be countenanced.



(Exhibit 2.2- Alfonso Anggala IPC-14-2005-00050)

The Supreme Court in *Unno Commercial Enterprises, Incorporated vs. General Milling Corporation*, G.R. No. L-28554. February 28, 1983 held that: “only the owner of the mark has the right to register the same. When the applicant is not the owner of the Trademark being applied for, he has no right to apply for the registration of the same under the Trademark Law only the owner of the trademark, trade name or service mark used to distinguish his goods, business or service from the goods, business or service of others is entitled to register the same.”

WHEREFORE, premises considered the OPPOSITION filed by Reno (Thailand)Co., Ltd. Docketed Inter Parties Case No. 14-2005-00050 against Application Serial No.4-2005-007611, filed on September 9, 2002 by Alfonso Anggala for registration of the Mark “A T O Z” is as it hereby SUSTAINED. Consequently, Application Serial No. 4-2002-007611, filed on September 9, 2002 by Alfonso Anggala for registration of the Mark “A T O Z” for goods under class 18, namely “wallet, coin purse, traveling luggage, suitcase, traveling cases, attaché cases, school bags, clutch bags, overnight bags, pilot cases and class 25, namely: ‘T-shirt, polo, polo shirts, pants, jeans, slacks, jackets, briefs, panties, belts, caps, suspender, socks, sweatshirts, jogging suits, swimming trunks, swimsuits, shorts, stockings, blouses, skirts, shoes, slippers, sandals, boots” is, as it is hereby REJECTED.

Accordingly, the Opposition filed by Alfonso Anggala docketed as Inter Parties Case No. 14-2004-00085, filed against Application Serial No. 4-2002-009790 filed on 14 November 2002 for registration of the mark “AIIZ” is as it is hereby DENIED. Accordingly, Application Serial No.4-2002-009790 filed by Reno (Thailand) Co. Ltd., on 14 November 2002 for registration of the mark “AIIZ” for goods under Class 25 namely: “shirt, T-shirt, jackets, pants, skirts, shoes, knits, socks, underwear, hats, neckties”, is as it hereby, GIVEN DUE COURSE.

Let the filewrapper of “ATOZ” and “AIIZ” subject matters of this consolidated Opposition cases together with a copy of this Decision be forwarded to the Bureau of Trademarks (BOT) for appropriate action.

SO ORDERED.

Makati City, 31 August 2007.

ESTRELLITA BELTRAN-ABELARDO
Director, Bureau of Legal Affairs
Intellectual Property Office