

DECISION

This is an Opposition filed by Sunburst Products, Inc., a corporation organized and existing under the laws of the State of California, U.S.A. with offices at 21025 Osborne St., Canoga Park, California 91304, U.S.A., to the application in the Principal Register of the trademark FREE STYLE & DEVICE for travelling bags, ladies bags, luggages, wallets, belts, ladies and men's t-shirts, pants, jeans and ladies dresses, children's wear namely: t-shirts, pants, girls dresses included in Classes 18 and 25, filed on 11 January, 1984 under Application Ser. No. 52960, by Susana Tan, a Filipino citizen of Mandaluyong, Metro Manila, which was published for opposition on page 19, vol. II, No. 7 of the BPTTT Official Gazette of 31 July, 1989.

The Verified Notice to Opposition was received by this Office on 29 September, 1989. Immediately upon receipt of said Verified Notice of Opposition, this Office sent to the Respondent-Applicant a Notice requiring it to answer the attached Verified Notice of Opposition within fifteen (15) days from receipt thereof, which notice was received by Respondent-Applicant on 6 October, 1989.

On 4 May, 1990, Opposer, through Counsel, filed an ex-parte Motion to Declare Respondent-Applicant in Default for failure to file his answer. Consequently, considering that there has been proper service on Respondent-Applicant and that despite receipt, she failed to file her answer, Respondent was thereby declared IN DEFAULT per Order No. 91-81 at the same time setting the case for hearing for the reception of evidence ex-parte on 28 February, 1991. However, before the scheduled date of hearing, Opposer filed on 15 February, 1991 the instant Motion to Dismiss on the ground that Opposer is now the owner of the application subject of opposition as per the attached copy of the Deed of Assignment executed by Applicant, and praying that the judgment be rendered as follows:

1. Dismissing the instant Notice of Opposition

- 2. Directing the Patent/Trademark, Registry and EDP Division to record the attached Deed of Assignment after the payment of the required fees; and
- 3. Giving due course to Application Ser. No. 52960 for the trademark FREE STYLE & DEVICE and directing the Application, Issuance and Publication Division to issue the corresponding Certificate of Registration in the name of the herein Opposer.

WHEREFORE, it appearing that the Motion to dismiss is in order, the same is, as it is hereby, GRANTED. Accordingly, it is hereby ordered that this Opposition Case be Dismissed for having become moot and academic. The Patent/Trademark and Registry Division is directed to record the Deed of Assignment upon payment of the required filing fee. After which, Application Ser. No. 52960, for the trademark FREE STYLE & DEVICE, used on leather products and clothings in Classes 18 and 25 is directed to be forwarded to the Applications, Issuance and Publications Division for the issuance of the corresponding certificate of registration in the name of herein Opposer as Assignee.

Let a copy of this Decision be furnished to the Trademark Examining Division for appropriate action in accordance with this Decision and to update its records.

SO ORDERED.

IGNACIO S. SAPALO Director