

BON JOUR INTERNATIONAL LTD.,  
Petitioner,

INTER PARTES CASE NO. 1949

PETITION FOR CANCELLATION  
Cert. of Regn. No. SR-4514

Issued : February 1, 1980

Registrant : Sehwani, Inc.

Trademark : BON JOUR

Used on : Men's, boys' and  
ladies' jeans, pants,  
sportshirts, underwear,  
such as bra, briefs,  
pants, sandos and socks

- versus -

SEHWANI, INC.,  
Respondent-Applicant.

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DECISION NO. 88-16 (TM)  
March 2, 1988

#### DECISION

This is a petition filed by Petitioner, Bon Jour International, Ltd., for the cancellation of Certificate of Registration No. SR-4514 issued on February 1, 1980 in favor of Respondent-Registrant, Sehwani, Inc., for shirts, pants, jeans and briefs.

Petitioner is a foreign corporation organized and existing under the laws of New York, U.S.A., with its principal offices at 520 Eight Avenue, New York, New York 10018, U.S.A., represented in this case by its local counsels, Messrs. Emeterio V. Soliven & Associates, holding office at 2nd Floor, E. V. Soliven Building, 708-712 Vicente Cruz Street, Sta. Cruz, Manila. Respondent-Registrant is a domestic corporation organized and existing under the laws of the Philippines, holding office at St. Jude Street, Pasig, Metro Manila, Philippines, where they may be both served with summons and other processes of this Office.

The grounds for this Petition are as follows:

"1. That the registration of the trademark 'BON JOUR' for men's, boys', ladies' jeans, pants, sportshirts, underwear, such as bra, brief, panty, sandos and socks in Class 25 is contrary to the provisions of Section 4(d), Chapter II-A of Republic Act No. 166, as amended.

2. That your petitioner is the owner-registrant of the trademark 'BON JOUR' covered by U. S. Registration Nos. 1,058,349 and 1,180,332 issued on February 15, 1977 and December 1, 1981, respectively, and had been used in trade and in commerce in the United States since May 20, 1975 for goods under Class 25, specifically pants, skirts, dresses and jumpsuits and said trademark has not been abandoned.

3. That your petitioner's tradename is 'BON JOUR INTERNATIONAL LTD.', thus the mark or name 'BON JOUR' is the dominant part of said tradename and under the Treaty of Paris for the Protection of Industrial Property which took effect in the Philippines on September 27, 1965, the same is protected by said treaty. The pertinent provision thereof reads:

'Article 8(a)

A tradename (b) shall be protected (c) in all the countries of the Union without the obligation of filing or registration (d) whether or not it forms part of a trademark (e).'

4. That in view of the illegal use and registration by respondent-registrant of petitioner's tradename in connection with the said goods in Class 25, the same causes confusion and mistake, and deceives unscrupulous dealers into believing that the goods of the respondent-registrant originated from the petitioner to the injury and damage of the latter and the buying public."

Respondent filed its Answer on June 19, 1985 and containing several denials and defenses set forth therein.

The pre-trial conference, for failure of settlement, was terminated and the parties proceeded to trial on the merits.

Several resettings were made by parties' counsels because of their continued efforts to reach settlement. On September 17, 1987, this Office received a letter from Petitioner's counsel which states:

"Undersigned counsel for and in behalf of petitioner hereby withdraws as counsel in the above-entitled administrative proceedings.

The petitioner further manifested its lack of interest in pursuing further the case."

In response to the inquiry of this Office, counsel for the Petitioner submitted a telex from Bon Jour International, Ltd. seeking the withdrawal of the petition.

IN VIEW THEREOF, this case is hereby DISMISSED. Let Registration No. SR-4514 issued on February 1, 1980 in favor of the herein Respondent-Registrant for the trademark "BON JOUR" for shirts, pants, jeans, etc. STAND unless sooner terminated in accordance with law.

Let the records of this case be transmitted to the Application, Publication and Documentation Division for appropriate action in accordance with this Decision.

SO ORDERED.

IGNACIO S. SAPALO  
Director