

COMAPGENIE DES MONTRES
LONGINES, FRANCILLON S.A.
(LONGINES WATCH CO.,
FRANCILLON LTD.),

Opposer,

INTER PARTES CASE NO. 3201

OPPOSITION TO:

Application Serial No. 54716
Filed : September 21, 1984
Applicant : Celebrity Manufacturing
Corporation
Trademark : LONGINES
Used on : T-shirts, polos, jackets,
pants, jeans, blouses,
shorts and negligees.

- versus -

CELEBRITY MANUFACTURING
CORPORATION,

Respondent-Applicant.

x-----x

DECISION NO. 89-19 (TM)

March 8, 1989

DECISION

This action is a Notice of Opposition filed September 15, 1988 by Opposer, through counsel, against the application for registration of "LONGINES" for T-shirts, polos, jackets, pants, jeans, blouses, shorts, and negligees filed by herein Respondent-Applicant on September 21, 1984 with Serial No. 54176, which was published for opposition in the BPTTT Official Gazette officially releases on July 18, 1988.

Opposer is a foreign company under the laws of Swiss, with head office in St. Imier, Switzerland, while Respondent-Applicant is a domestic corporation with business address at 42 Bulacan Street, West Avenue, Quezon City, Philippines.

On September 23, 1988, a Notice to Answer was sent to Respondent-Applicant by registered mail requiring the filing of an Answer within fifteen days from receipt thereof. The notice, per registry return receipt, was received by Respondent-Applicant on September 28, 1988. Since no Answer was filed within period provided in the Notice, this Bureau, upon motion by the opposer, issued Order No. 89-10 declaring Respondent-Applicant in default and allowed Opposer to present its evidence ex-parte.

Admitted as Opposer`s evidence were documents marked Exhibits "A" to "H", inclusive of their submarkings.

Evidence show that Respondent-Applicant`s mark as appearing in the labels submitted with the application is identical with the registered mark of the Opposer. Opposer first used the mark for watches in Switzerland on December 31, 1942 (Exh. "A-1") and in the Philippines on April 1, 1947 (Exh. "A-2"). The mark "LONGINES AND DEVICE" was registered by the Opposer in the Philippines on May 14, 1957 under Certificate of Registration No. 5881 and Certificate if Renewal No. 1884 dated May 19, 1978. Opposer kept the registration valid and enforceable, having filed the requisite fifth and tenth anniversary Affidavits of Use (Exhs. "B" and "C") pursuant Section 12 of Republic Act 166 as amended. Likewise, Opposer presented advertisement materials showing the mark "LONGINES" in T-shirts, shirts, jackets, towels, umbrellas, bags

wallets, belts, key chains, neckties and hats (Exhs. "D" and "E" which are identical with the goods of Respondent-Applicant.

With the foregoing facts, the registration of the trademark "LONGINES" in the name of respondent-Applicant is proscribed by Section 4(d) of Republic Act 166, as amended, which provides:

" x x x The owner of a trademark x x x used to distinguish his goods, business or services from the goods, business or services of others shall have the right to register the same on the principal register, unless it:

x

x

x

(d) Consists of or compromises a mark or trade name which so resembles a mark or tradename registered in the Philippines or a mark or tradename previously used in the Philippines by another and not abandoned as to be likely, when applied to or used in connection with the goods, business or services of the applicant to cause confusion or mistake or to deceive purchasers."

Moreover, the non-filing of the answer and motion to lift order of default despite notice is indicative of Respondent-Applicants lack of interest in its application, thus it is deemed to have abandoned the same.

WHEREFORE, premises considered, the herein Notice of Opposition is SUSTAINED. Application Serial No. 54176 for the registration of the mark "LONGINES" in favor of the herein Respondent-Applicant is hereby REJECTED.

Let the records of this case be remanded to the application, Issuance & Publication Division for appropriate action in accordance with this Decision.

SO ORDERED.

IGNACIO S. SAPALO
Director