

FILCON MANUFACTURING
CORPORATION (FILCON)
Opposer,

IPV No. 10-2005-00003

-versus-

For: Violation of Republic Act 8293

WESTON DEPARTMENT STORE
Respondent-Applicant,

x-----x

Decision No. 2007-06

DECISION

For decision is the complaint for Violation of Republic Act 8293 filed by Filcon Manufacturing Corporation (Filcon), complainant, a corporation organized and existing under Philippine laws with address at Unit E-2801 C, East Tower, Philippine Stock Exchange Center, Exchange Road, Ortigas Center, Pasig City against Weston Department Store, respondent, a business establishment located at No. 650 Rizal Avenue, Quiapo, Manila .
Complainant avers the following causes of action:

“3. Complainant, Filcon Manufacturing Corporation, is a firm engaged in the business of manufacture, distribution, and sale of rubber shoes and other footwear products under the brand name CONVERSE.

4. Filcon Manufacturing Corporation has an exclusive licensing agreement with CONVERSE INC., a corporation engaged, among other, in the manufacture and distribution of the rubber shoes and other footwear, T-shirts and hosiery under the world-renowned brand name “CONVERSE”. In addition to the aforementioned exclusive licensing agreement, Filcon Manufacturing Corporation is likewise authorized to institute before the proper court, agency or tribunal the appropriate action for unfair competition, infringement, damages and other violations of Intellectual Property Rights against any and all infringers and unfair competitors. (Attached herewith and made as integral part hereof as ANNEXES “B” to “B-3”, inclusive, is the duly authenticated certification issued by “CONVERSE, INCORPORATED” in favor of Filcon Manufacturing Corporation).

5. Converse Incorporated is the owner of the famous trademark “Chuck Taylor”, “Converse”, “Converse All Star”, “Star and Chevron” and “All Star”, Design. The latter’s ownership is evidenced by the Certificate of Registration issued by the Intellectual Property Office, formerly the Bureau of Patents, Trademarks and Technology Transfer (BPTTT). (Photocopy of the Certificate of registration issued in favor of COVERSE, INCORPORATED is hereto attached to form integral part hereof as ANNEXES “C” to “G-4”).

6. During the last quarter of the year 2004, complainant received numerous and alarming report the rubber shoes and other footwear products under the brand name “CONVERSE” with substandard materials and poor quality are openly sold in the market. On the basis of such information, complainant acting through its Executive Vice-President issued an order directing its field personnel to gather information and to conduct test but on the establishments found to be engaged in selling the aforesaid substandard rubber shoes under the brand name “CONVERSE”,

7. Acting pursuant to the instruction of the Executive Vice-President, on 21 January 2005, one of the employees of Filcon Manufacturing Corporation noticed that Weston Department Store located along Rizal Avenue, Quiapo, Manila, is selling rubber shoes under the brand name “CONVERSE”. Considering that there is an outstanding instruction

from the Executive Vice-President of herein complainant Filcon Manufacturing Corporation to monitor establishments selling substandard rubber shoes under the brand name "CONVERSE", the same made an initial examination of the rubber shoes bearing the mark "CONVERSE" being sold at respondent establishment, Weston Department Store. Based on the initial inspection of the rubber shoes bearing the mark "CONVERSE", the rubber shoes offered for sake is counterfeit.

8. To verify the initial examination, the employee of Filcon Manufacturing Corporation purchased a pair of "CONVERSE" rubber shoes. (Photocopy of the Affidavit of the buyer and the Tape Receipt issued respondent establishment is hereto attached to for, part hereof as ANNEXES "H" and "I", respectively). For the sample of rubber shoes bearing the counterfeit mark of "CONVERSE", herein complaint reserves the right to present the same in the course of the proceedings and upon the instruction of this Honorable Office.

9. The sample of rubber shoes bearing the counterfeit mark "CONVERSE" was immediately forwarded to the Quality Control Department of complainant Filcon Manufacturing Corporation for the conduct of appropriate examination. After a solicitous examination of the "CONVERSE" rubber shoes purchased from respondent, the Quality Control Department was able to ascertain that the rubber shoes under the brand name "CONVERSE" purchased from Weston Department Store is counterfeit. (Photocopy of the Official Certification of the Quality Control Department of Filcon Manufacturing Corporation is hereto attached to form part hereof as ANNEX "J").

10. By Juxtaposing the rubber shoes under the brand name "CONVERSE" bought from respondent Weston Department Store and the original "CONVERSE" rubber shoes manufactured by Complainant Filcon Manufacturing Corporation, the consumers, who, in general, are unaware of the specifications of the original "CONVERSE" rubber shoes will not be able to determine, with precision, the original from the sham. Hence, in order not to unduly prejudice the consuming public and ruin complainant's long established reputation, goodwill and good quality of products, the distribution and/or sale of feigned "CONVERSE" rubber shoes by Weston Department Store should be halted.

SECOND CAUSE OF ACTION

12. By reason of the Respondent's unlawful act of selling rubber shoes bearing counterfeit mark of "CONVERSE", complainant Filcon Manufacturing Corporation was constrained to institute the present action for violation of Republic Act 8293, otherwise known as the Intellectual Property Rights Code of the Philippines, thereby incurring litigation expenses.

THIRD CAUSE OF ACTION

13. On account of the well established goodwill and reputation of herein Complainant besmirched due to Respondent's unlawful act of selling counterfeit "CONVERSE" rubber shoes, an award of damages, representing the loss of profit of herein complainant, equivalent to TWO MILLION PESOS (Php 2, 000, 000.00), in Philippine currency, in favor of Complainant is warranted.

FOURTH CAUSE OF ACTION

14. In order to deter the commission of similar act and to serve as example for public good, herein Respondent should be assessed exemplary damages, the amount of which, though incapable of pecuniary estimation, should not be less than FIVE HUNDRED THOUSAND PESOS (Php 500, 000.00)

FIFTH CAUSE OF ACTION

15. For the protection of Complainant's interest, the same was constrained to engage the services of a legal counsel for a fee of TEN percent (10%) of the amount recoverable.

For its part, respondent raised the following special and affirmative defenses:

11. Respondent repleads all the materials allegations contained in the preceding paragraphs.

12. Respondent orders and buys in the past years and buy some rubber shoes, for sale in its store from the complainant itself. Attached as Annexes "1" et seq. are some sales invoices for respondent's purchases of rubber from the complainant in the past.

13. The complainant attached as Annexes "H" in its Complaint the alleged tape receipt of the respondent for the purchase of a pair shoes costing P375.00. This tape receipt does not in any way show that the complainant indeed purchased a pair of "Converse" rubber shoes from the respondent. As a matter of fact, it does not even indicate the items purchased.

14. This tape receipt does not even indicate or in anyway show that the pair of shoes was sold to Complainant Filcon, or any of its representative/agent.

15. In any event, the alleged "converse" shoe that was purchased by the complainant, or even the picture of the same, is not attached to the Complaint. Hence, respondent would not have anyway of verifying its genuineness.

16. Finally, after the alleged sale the shoes complainant and/or its representative was kept the same. Hence, the possibility of its being changed or substituted is always present, or possible.

17. If at all, the complainant should have itself accompanied by a police officer when the purchase was made, and that the shoes that was purchased should have been deposited for safekeeping at the police station.

18. The Affidavit of a certain Ronaldo Barros (attached as Annex "1" of the Complaint) and the certificate of Purchase of Counterfeit Converse Shoes (attached as Annex "J" of the Complaint) both self-serving coming as they were from biased personnel of the complaint".

During the pre-trial conference initially scheduled on 2 May 2005 and reset to 9 August 2005, the parties manifested their intention to submit the case for mediation. However, despite efforts to amicably settle the case, no mutual agreement was reached so the case proceeded for trial.

Complainant offered the testimony of two witnesses, namely: Randy Esguerra and Teresita Chan and the following documentary and object evidence consisting of exhibits "A" to "G", "H", "I", "J", "K", "L" and "M" which this Bureau admitted, as follows:

EXHIBITS	DESCRIPTION
"A"	Secretary's Certificate
"B"	Letter of Authority
"C"	Certificate of Registration "Chuck Taylor"

"D"	Certificate of Registration "Converse"
"E"	Certificate of Registration "Converse All Star & Chuck Taylor & Design"
"F"	Certificate of Registration "Star & Chevron Design"
"G"	Certificate of Registration "All Star"
"H"	Sample of Counterfeit Converse rubber shoes
"I"	Proof of Purchase
"J"	Certification of Quality Control personnel
"K"	Judicial affidavit of Randy Esguerra
"L"	Genuine Converse Chuck Taylor (Hi-cut)
"M"	Judicial affidavit of Ms. Teresita Chan

Respondents offered the testimony of two witnesses, namely Agapita Magpantay and Mercedes Marques, and the following documentary and object evidence, consisting of Exhibits "1" to "11" as follows:

EXHIBITS	DESCRIPTION
"1"	Filcon Manufacturing Corporation Sales Invoice No. 154853
"2"	Filcon Sales Invoice No. 154799
"3"	Filcon Sales Invoice No. 152914
"4"	Filcon Sales Invoice No. 162913
"5"	Affidavit of Mercedes Marquez
"6"	Weston Dept. Store Tape Receipt dated 1/21/05
"9"	Affidavit of Agapita Magpantay
"10"	Certification from the Office of the City Treasurer
"11"	Certificate of No Outstanding Tax Liability
"7"	Weston Identification Card Issued to "Mar" ("7"); dorsal portion of the ID ("7-a"); entry "W-772" ("7-a-1")
"8"	Men's Shs (Shoes) Price List ("8"); entry, "542068" ("8-a"); phrase "New Olympian Rubber Products"

The issue in this case is whether the respondent committed any violation of Republic Act 8293 for allegedly selling counterfeit Converse shoes and whether the complainant is entitled to claim damages.

Trademark infringement is committed by the unauthorized use of a registered mark. The law provides:

"Sec. 155. Remedies; Infringement

Any person who shall, without the consent of the owner of the registered mark:

155.1. Use in commerce any reproduction, counterfeit, copy, or colorable imitation of a registered mark or the same container or a dominant feature thereof in

connection with the sale, offering for sale, distribution, advertising of any goods or services including other preparatory steps necessary to carry out the sale of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive; or.

155.2 Reproduce, counterfeit, copy or colorably imitate a registered mark or a dominant feature thereof and apply such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used in commerce upon or in connection with the sale, offering for sale, distribution, or advertising of goods or services on or in connection with the sale, offering for sale, distribution, or advertising of goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive, shall be liable in a civil action for infringement by the registrant for the remedies hereinafter set forth: Provided, That the infringement takes place of the moment any of the acts stated in Subsection 155.1 or this subsection are committed regardless of whether there is actual sale of goods or services using the infringing material.”

Complainant, by authority of Converse, Inc., submitted in evidence Converse, Inc.'s Philippine registrations of the marks “Chuck Taylor”, R-12170 issued in March 3, 1986; “Converse” Certificate of Registration No. 32021 issued June 30, 1983, “Converse All Star Chuck Taylor & Design”, Certificate of Registration No. 46782, November 3, 1980 “Star & Chevron Design”, Certificate of Registration No. 46782, issued on September 13, 1998 and “All Star” Certificate of Registration No. 32751 issued on October 19, 1983, (Exhibits “C”, “D”, “E” and “F” and “G”). A sample complainant's good, a red pair of “Converse” shoes (Exhibit “L”) was likewise submitted in evidence. This bears the registered marks all the abovementioned marks. Respondent could not give any documentary or oral testimony to indicate that the register owner of the “converse” marks gave its consent or permission to apply the “converse” marks on its goods. Thus, by respondent's sale of rubber shoes which bear all of the registered marks is plain trademark infringement. Respondent admits that it used to purchase “converse shoes” from complaint and has shown sales receipts dated in 1999 (Exhibits “1”). If further admits having sold “Converse” shoes in 200 and 2001 but asserts that it has ceased and discontinued the sale of “Converse” shoes in its store after that time due to poor sales of converse shoes. It also avers that its closed shop in January of 2006 as evidence by BIR Certification (Exhibits “11”). We are unconvinced by these representations.

We give credence to the testimony of Randy Esguerra on March 3, 2006 where he candidly and spontaneously described the location of the shop and the attendant circumstances in the purchase of counterfeit goods. He testified:

(TSN, March 3, 2006, page 31)

Atty. Yambot : How about Weston Shoe Store?

Witness : Weston is near the area, of more of going to the area of Carriedo. This is actually much cleaner, much more well lit as far as I can remember. As far as I can recall during that time, a much more well lit design. Weston is as I can recall a little much bigger than Kingston. Basically, also carrying as if I can remember it correctly, apparel also some non-branded apparels, also carrying some non-branded shoes. I cannot recall exactly what other brands they carry.

He adequately explained his presence near the entrance of the store. The witness testified:

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Atty. Yambot : Now what time did you finish with the last, which is the last store you visited?

Witness : I believe Kingston, Weston, Kimberly.

Atty. Yambot : What time did you finish from buying Kingston, Weston, Kimberly.

Witness : I cannot completely recall. Probably around 3 or 4 o'clock in the afternoon.

(Page 34-35)

Atty. Yambot : So did you also proceed to the area where the alleged shoes were displayed?

Witness : No., I just can see it clearly from the entrance.

Atty. Yambot : So you were again situated at the entrance?

Witness : Witness Nodded.

Atty. Yambot : So you mean to tell me that for all the three Respondent shoe stores they allowed this Mr. Barros to bring the sample to you at the entrance?

Witness : Well, because it was Mr. Barro's job to mainly do the purchase, to the initial ocular and my job was really not to go with Mr. Barros inside the store. My job was merely to examine products as if I was staging along with Mr. Barros and just giving hi, a nod of approval, hey, that's a nice shoe you buy it. So that was more of my job right there.

It is not incredible that Mr. Barros positioned himself near the entrance of the store. Neither is it uncommon to see shoppers who before making purchases consult persons who accompany them while shopping their opinion on the goods before actually making the final purchase.

This same witness who was also familiar and knowledgeable in spotting the differences in details and craftsmanship of a genuine and counterfeit version of CONVERSE rubber shoes was utilized to prove that the goods respondent was selling were counterfeit "converse" shoes. He further testified:

(Page 19,20,21)

Atty. Lopez : Mr. Witness going to IPV Case No. 0003 Filcon versus Weston Department Store. These rubber shoes Mr. Witness which you claim was purchased from Weston Department Store, how ill you determine if this is counterfeit or not Mr., Witness?

Witness : Well, on high insight also as I was saying with the material which is being used on the upper which is called the canvas, you can see clearly that the color weight of the red is very very way off the color of this one, the counterfeit. You can see the color of the original is much brighter compared to the counterfeit. When we display the products in the store, we always have a built in hang tag. We call it a hang tag which is attached to the price tag of the product. xxx So this is one of the most important things which compared to this one has a poorly made Chinese character logo, xxx Another difference that I can note is that on the, we called this the hill tab. The original hill tab says All Star and then the letter R registered. This one, the hill tab of this one says All Star and then designed in USA which is never a designed being used by Converse even for Chuck Taylor. xxx".

Atty. Lopez : How about on the sole Mr. Witness?

Witness : Well basically the soles, you can clearly see when this is, I think probably pastel pink. But there is another security measure that we have which is actually the sole which we called the side tape. The process of making a Chuck Taylor is its rubber vulcanized on two textile or canvas. So it's like doing a tire, vulcanizing a tire, you put on heat so that it sticks together. We put what we call weaves of string in between two rubbers so that when you mold it together it's very very sturdy and strong. Xxx But when you look at this one it just has, they try to make it look as if it has strings in between. So they groove it, some grooves in to the sides to make it look like there is sting in between the two rubbers. When actually you look at the bottom, it's just two rubbers molded together.

The Supreme Court in the case of Emerald Garment manufacturing Corporation v. Court of Appeals, G.R. No. 100098, December 29, 1995 held:

“Proceeding to the task at hand, the essential element of infringement is colorable imitation. This term has been defined as “such as close or ingenious imitation as to be calculated to deceive ordinary purchasers, or such resemblance of the infringing mark to the original as to deceive an ordinary purchaser giving such attention as a purchaser usually gives, and to cause him to purchase the one supposing it to be the other.” Colorable imitation does not mean such similitude as amounts to identity. Nor does it require that all the details be literally copied. Colorable imitation refers to such similarity in form, content, words, sound, meaning, special arrangement, or general appearance of the trademark or tradename with that of the other mark or tradename in their over-all presentation or in their essential, substantive and distinctive parts as would likely mislead or confuse persons in the ordinary course of purchasing the genuine article.”

In the case at bar, there is no issue as to whether the respondent's mark is confusingly similar to complainant's mark, the registered marks “ALL STAR” and “CONVERSE”, “CHUCK TAYLOR” are exactly the identical marks that appear on respondent's goods.

Not only were the registered marks identical but the style and appearance of the rubber shoes are the same.

The provision on unfair competition states:

“SEC. 168. Unfair Competition, Rights, Regulation and Remedies

168.1. A person who has identified in the mind of the public the goods he manufactures or deals in, his business or services from those of others, whether or not a registered mark is employed, has a property right in the goodwill of the said goods, business or services so identified, which will be protected in the same manner as other property rights.

168.2. Any person who shall employ deception or any other means contrary to good faith by which he shall pass off the goods manufactured by him or in which he deals, or his business, or services for those of the one having established such goodwill, or who shall commit any acts calculated to produce said result, shall be guilty of unfair competition, and shall be subject to an action therefore.

168.3. In particular, and without in any way limiting the scope of protection against unfair competition, the following shall be deemed guilty of unfair competition:

(a) Any person, who is selling his goods and gives them the general appearance of goods of another manufacturer or dealer, either as to the goods themselves or in the wrapping of the packages in which they are contained, or the devices or words thereon, or in any other feature of their appearance, which would be likely to influence purchasers to believe that the goods offered are those of a manufacturer or dealer, other than the

actual manufacturer or dealer, or who otherwise clothes the goods with such appearance as shall deceive the public and defraud another of his legitimate trade, or any subsequent vendor of such goods or any agent of any vendor engaged in selling such goods with a like purpose;

(b) Any person who by any artifice, or device, or who employs any other means calculated to induce the false belief that such person is offering the services of another who has identified such services in the mind of the public; or

(c) Any person who shall make any false statement in the course of trade or who shall commit any other act contrary to good faith of a nature calculated to discredit the goods, business or services of another.

The facts of *Converse Rubber Corporation and Edwardson Manufacturing Corporation v. Jacinto Rubber & Plastics Co., Inc.* (G.R. Nos. L-27425 & L-30505 April 28, 1980), the Supreme Court ruled:

“We find the shoes manufactured by defendants to contain, as found by the trial court, practically all the features of those of the plaintiff Converse Rubber Corporation and manufactured, sold or marketed by plaintiff Edwardson Manufacturing Corporation, except for their respective brands, of course. We fully agree with the trial court that “the respective designs, shapes, the colors of the ankle patches, the bands, the toe patch and the soles of the two products are exactly the same . . . (such that) “at a distance of a few meters, it is impossible to distinguish “Custombuilt” from “Chuck Taylor”. These elements are more than sufficient to serve as basis for a charge of unfair competition. Even if not all the details just mentioned were identical, with the general appearances alone of two products any ordinary, or even perhaps even a not too perceptive and discriminating customer could be deceived, and therefore. Custombuilt could easily be passed off for Chuck Taylor. Jurisprudence supports the view that under such circumstances, the imitator must be held liable. In *R.F. & J. Alexander & Co. Ltd. et al. vs. Ang et al.*, 97 Phils. 157, at p. 160, this Court held:

“By ‘purchasers’ and ‘public’ likely to be deceived by the appearance of the goods, the statute means the ‘ordinary purchaser’. And although this Court apparently shifted its position a bit in *Dy Buncio vs. Tan Tiao Bok*, 42 Phil. 190, by referring to simulations likely to mislead ‘the ordinarily intelligent buyer’, it turned to the general accepted doctrine in *E. Spinner & Co. vs. Neuss Hesslein*, 54 Phil. 224, where it spoke of ‘the casual purchasers’ ‘who knows the goods only by name.’

“It stands to reason that when the law speaks of purchasers’ it generally refers to ordinary or average purchasers.

‘... in cases of unfair competition, while the requisite degree of resemblance of similarity between the names, brands, or other indicia is not capable of exact definition, it may be stated generally that the similarity must be such, but need only be such, as is likely to mislead purchasers of ordinary caution and prudence; or in other words, the ordinary buyer, into the belief that the goods or wares are those, or that the name or business is that, of another producer or tradesman. It is not necessary in either case that the resemblance be sufficient to deceive experts, dealers, or other persons especially familiar with the trademark or goods involved. Nor is it material that a critical inspection and comparison would disclose differences, or that person seeing the trademarks or articles side by side would not be deceived’ (52 Am. Jur. pp. 600-601).” (Brief for Plaintiffs as Appellees, pp. 28-29, p. 71, Record.)”

In proving its case, complainant offered proof that respondent’s goods were counterfeit and were but mere shoddy imitations of the genuine ‘converse’ shoes. But to the eyes of a judge, an ordinary purchaser, or an ordinary intelligent buyer familiar with the “converse” brand, for that

matter, by comparison of the goods of complainant (Exhibit "L") and respondent (Exhibit "H"), one can hardly tell one from the other. Neither can it be determined which one is fake or original. This is the precisely the essence of unfair competition. By passing off ones goods as that of another who has already gained goodwill for its goods, confusion and deception is likely to result.

These circumstances resulted to the downtrend in sales experience by complainant as testified to by witness Teresita Chan which warrants a finding for damages.

Section 156 provides:

"Section 156. Actions and Damages and Injunction for Infringement. – 156.1. The owner of a registered mark may recover damages from any person who has infringed his right, and the measure of damages suffered shall be either the reasonable profit which the complaining party would have made, had the defendant not infringed his rights, or the profit which the defendant actually made out of the infringement, or in he event that such measure of damages cannot be readily ascertained with reasonable certainty, then the court may award as damages a reasonable percentage based upon the amount of gross sales of the defendant. xxx"

Complainant's witness, Teresita Chan testified that:

Atty. Yambot : You mentioned in the same paragraph 7 that you estimated about four (4) pairs of Chuck Taylor All Star Shoes sold for one day in a store. Where did you get this estimate?

Witness : As I have mentioned earlier, it is a conservative estimate of any store that is selling Chuck Taylor or Converse shoes in the Rizal Avenue area because if we consider four (4) pairs in a day, that is a very very conservative estimate considering that from that we know, the stores had been selling predominantly Converse shoes before the case has been filed. So our conservative estimate of four (4) pairs is we think its even more than four.

Complainant's prayer for actual damages and compensatory damages cannot be sustained. There is nothing in the records that will support a finding that Complainant suffered two million in damages as it did not present any competent proof to support its claim. The absence of malice and bad faith renders the award of exemplary damages improper. (Bank of the Philippines Islands vs. The Intermediate Appellate Court et al., G.R. 69162, February 21, 1992 citing Globe Mackay Cable and Radio Corp. vs. Court of Appeals, 176 SCRA 778). Exemplary damages maybe granted if Respondent/s acted with gross negligence or in a wanton, fraudulent, reckless, oppressive, or malevolent manner (Arts. 2231-2232, Civil Code; National Power Corporation vs. Honorable Court of Appeals et al., G.R. No. L-47379, May 16, 1988 and Engineering Construction, Inc. vs. Court of Appeals et al., No. L-47881, May 16, 1988). In the case at bench, Complainant was not able to prove the requirements of law and jurisprudence in regard to the grant of exemplary damages.

Complainant may find some comfort in Articles 2222 and 2224 of the Civil Code which allow for the recovery of temperate and nominal damages. Temperate damages may be awarded where there is some pecuniary loss suffered but its amount cannot, from the nature of the case, be provided with certainty while nominal damages may be awarded in every case where any property right has been invaded. In the case at bench, Complainant failed to present evidence of its capital and actual amount of damages suffered but this Bureau finds that Respondents were in fact selling in commerce counterfeit Converse shoes though the volume and amount of such sales cannot be determined with certainty, vis-à-vis Complainant's sale of its Converse shoes to the latter's detriment.

WHEREFORE, in view of the foregoing, this Bureau finds that Respondents Weston Department Store committed the following:

1. trademark infringement by using in commerce without Complainant's consent a counterfeit copy of Complainant's registered marks CONVERSE, ALL-STAR, CONVERSE ALL STAR CHUCK TAYLOR shoes in connection with the sale, offering for sale, or distribution of counterfeit CONVERSE, ALL-STAR, CONVERSE ALL STAR CHICK TAYLOR shoes which such use is likely to cause confusion or mistake, or to deceive the buying public; and
2. unfair competition by employing deception or and other means contrary to good faith by which said Respondents passed off the shoes with the above-mentioned trademarks.

Consequently, Respondent Weston Department Store, is permanently enjoined to cease and desist from selling, offering for sale and/or distributing counterfeit Converse, All-Star, Converse All Star Chuck Taylor and Design, and is likewise ordered to pay the Complainant:

1. the amount of five hundred pesos (P500,000.00) as temperate damage and
2. fifty thousand pesos (P50, 000.00) as attorney's fees.

SO ORDERED.

Makati City, March 30, 2007

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