

RE: APPEAL FROM EXAMINER'S
FINAL REJECTION OF
TRADEMARK APPLICATION

EX-PARTE CASE (unnumbered)

Application Serial No. 58570
Filed : March 21, 1985
Trademark : PD LOGO
Applicant : Phelps Dodge
Philippines, Inc.
Used on : Electric wires and
Cables

PHELPS DODGE PHILIPPINES, INC.,
Applicant-Appellant.

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DECISION NO. 89-37 (TM)
June 13, 1989

DECISION

This is an appeal from the decision of the Trademark Examiner finally rejecting the application for registration of the trademark "PD LOGO" with Serial No. 58570 under its name, Phelps Dodge Philippines, Inc., the herein Appellant. The rejection is based on the citation of another trademark application, Serial No. 59347 filed on July 14, 1986 and allowed for publication on May 5, 1987 under the name of Phelps Dodge Industries, Inc., U.S.A.

The Appellant maintains that a subsidiary can pursue an application for registration of a trademark owned by another subsidiary on the ground that both are juridically related or affiliated with each other.

We disagree. Rule 24 of the Rules of Practice in Trademark Cases provides that:

"x x x (o)nly the owner of a trademark, tradename, or service mark may apply for its registration." (with emphasis)

It is clear from the above provision that no other person except the owner may apply for registration of the mark. The Appellant itself admitted in its Brief that it is not owner of the mark applied for and that it has a different personality from that of the owner. We quote the Appellant:

"x x x (w)hile the applicant and the owner of the cited mark have different personalities x x x" (with emphasis)

The remedy available to the Applicant-Appellant is simply to ask Phelps Dodge U.S.A. to file the application and thereafter assign to Phelps Dodge Philippines.

It is emphasized that we cannot disregard the clear provisions of the law. Respect for the law should be maintained at all times because it is vital to the very existence of our society.

IN VIEW OF THE FOREGOING, this appeal is hereby DENIED and the decision of the Trademark Examiner in finally rejecting the instant application is hereby AFFIRMED.

SO ORDERED.

IGNACIO S. SAPALO
Director