

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

EX PARTE CASE NO.

Application Serial No.: 65841
Filed: September 26, 1988
Applicant: Filipinas Lock Manufacturing
Trademark: YETE
Used On: Padlocks

FILIPINAS LOCK MANUFACTURING
Applicant-Appellant.

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DECISION NO. 90-21 (TM)

April 17, 1990

DECISION

This is an appeal to the Director re final rejection by the Examiner-in-Charge of the application for trademark "YETE".

Subject application was filed last September 26, 1988.

The principal issue raised in the action (Paper No.7) of the Examiner was the fact that subject mark is confusingly similar to "YETI" under Registration No. 36240 issued November 19, 1986 and pending Application Serial No. SR-7037 filed September 19, 1985, both in the name of Redfield International, Inc. and both for goods described as padlock. The subject mark is for padlock too but its application was filed only last September 26, 1988, or more that three (3) years after Redfield International, Inc. was actually issued Certificate of Registration No. 36240.

Under the Philippine Trademark Law (Republic Act No. 166, as amended), a trademark cannot be registered if the same "consists of or compromise a mark x x x which so resembles a mark x x x registered in the Philippines by another and not abandoned, as to be likely, when applied to or used in connection with the goods x x x of the applicant, to cause confusion or mistake or to deceive purchasers" (Sec. 4/d/, Republic Act No. 166, as amended; underscoring supplied for purposes of emphasis).

The following are some observation worth noting:

1. Except only for the difference in the last letters of the marks, the subject mark ending with "E", the cited mark ending in "I", both marks are identical in sound and in appearance both being executed in simple block letters. No devices, stylization or any peculiar presentation of either or both marks are involved.
2. With respect to the aspect of overall appearance of the actual labels on file of the contending marks, an actual comparison of said labels reveals the fact that:
 - a) both labels have identical designs; and
 - b) color combination (black and canary yellow) in both labels is the same.

WHEREFORE, the appeal is DENIED for lack merit.

Let the records of this case be forwarded to the trademark Examining Division for appropriate action in accordance with this Decision.

SO ORDERED.

IGNACIO S. SAPALO
Director