

JOLLIBEE FOODS CORPORATION,
Opposer,

INTER PARTES CASE NO.3176

OPPOSITION TO:

- versus -

Application Serial No. 54794
Filed : October 3, 1984
Applicant : Republic Biscuits
Corporation
Trademark : BIG CHAMP
Used on : Biscuits and bread

REPUBLIC BISCUITS CORPORATION,
Respondent-Applicant.

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DECISION NO. 89-22 (TM)
March 29, 1989

DECISION

Jollibee Foods Corporation filed on July 15, 1988 its opposition to the registration of the trademark "BIG CHAMP" for biscuits and bread applied for by Republic Biscuits Corporation under Application Serial No. 54794 on October 3, 1984, which was published for opposition in the BPTTT Official Gazette, Vol. I, No.4, Page 80, released on June 17, 1988.

Opposer is a corporation duly organized and existing under the laws of the Philippines, with principal office address at the 5th floor, Cilamat Building, E. Rodriguez Sr. Avenue, Quezon City, while respondent-applicant is likewise a corporation organized under the laws of the Philippines, with business address at No. 57 General Luis Street, Novaliches, Quezon City.

The grounds alleged in the opposition are:

"1. The trademark "BIG CHAMP" of respondent-applicant is confusingly similar, if not identical to the trademarks CHAMP and JR CHAMP and copyrighted intellectual creation CHAMP of herein opposer, which it had much earlier adopted and used in commerce in the Philippines being used for the same or related goods under the Official Classification of Goods of the Bureau of Patents, Trademarks & Technology Transfer x x x;

2. The opposer has spent much for the advertisement and promotion of the aforementioned trademarks nationwide and its business will be clearly damaged and will suffer irreparable injury;

3. The word CHAMP is the predominant feature of the trademark of respondent-applicant which so resembles to the trademarks of CHAMP and JR CHAMP previously registered with the Bureau of Patents, Trademarks & Technology Transfer or previously used in the Philippines and not abandoned, and the intellectual creation CHAMP duly copyrighted with the National Library Department of Education and Culture by the Opposer, as to be likely, when applied to or used in connection with the goods of respondent-applicant, to cause confusion, mistake or to deceive purchasers or consumers. x x x

4. More specifically, the public and patronizers of opposer`s products are deceived into buying respondent`s goods or are under the impression of and mistaken belief that respondent`s goods are identical with or come from the same source as

opposer`s products or that respondent is an affiliate or licensee of opposer, which it is not.”

Respondent-Applicant was furnished a copy of the Notice of Opposition on July 27, 1998 requiring it to file an Answer thereto within fifteen (15) days from receipt of said notice.

Respondent-Applicant, by counsel, filed on August 9, 1988, September 5, 1988, October 4, 1988 and a fourth one in October 27, 1988 ex-parte motions for extension of time to file its Answer, which were all separately granted on the ground that the parties are allegedly negotiating for the amicable settlement (last 2 ex-parte motions) of the case.

On November 17, 1998, both parties, assisted by their respective counsels, filed a Joint Motion to dismiss this case with prejudice, stating that they entered into a compromise agreement (see attached Joint Motion and Compromise Agreement), both dated November 8, 1988. The gist of their Compromises Agreement reads:

“1. REPUBLIC recognizes that JOLLIBEE is the registered owner of the trademarks CHAMP and JR CHAMP and as such, the latter has the exclusive right to use the same;

2. REPUBLIC is given up to February 28, 1989 within which to dispose all its labels bearing trademark “BIG CHAMP” in its possession or control and henceforth, to cease and desist totally and permanently from using the trademark “BIG CHAMP” in the products it is dealing with;

3. JOLLIBEE shall not bring any other action against REPUBLIC or it employees, agents or representatives for their past unauthorized use of the confusingly similar if not identical trademark “BIG CHAMP”.

The foregoing terms and conditions are lawful, fair, equitable and not contrary to sound public policy.

WHEREFORE, subject to the provisions of the attached Compromise Agreement, the Opposition case is DISMISSED.

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

SO ORDERED.

IGNACIO S. SAPALO
Director