

JORDACHE ENTERPRISES, INC.,
Opposer,

INTER PARTES CASE NO. 1932

PETITION FOR CANCELLATION

- versus -

Cert. of Regn. No. SR-4579
Issued : February 26, 1980
Registrant : Juanito Tao
Used on : jeans, denims, pants,
jackets, and T-shirts

JUANITO TAO,
Respondent-Registrant.

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DECISION NO. 88-42 (TM)
July 7, 1988

DECISION

This is a Petition filed by Jordache Enterprises, Inc. (Petitioner) seeking cancellation of Supplemental Registration Certificate No. SR-4579 issued on February 26, 1980 in favor of Respondent-Registrant, Juanita Tao, for the trademark "HORSEHEAD" used on jeans, denims, pants, jackets and T-shirts.

Petitioner is a foreign corporation organized and existing under the laws of New York, U.S.A., holding office at 498 Seventh Avenue, New York, New York 10018, U.S.A., while Respondent-Registrant is a Chinese national with business address at Best Buy Mart, Juan Luna Street, Car. P. Gullas Street, Cebu City, Philippines.

Records show that on December 17, 1979, Respondent-Registrant sought for the registration of trademark "HORSEHEAD" in both the Principal Register and Supplemental Register. On February 26, 1980, he was issued Supplemental Registration No. SR-4579 (subject of this Petition).

The fact of his filing of an application for registration of the same trademark in the Principal Register was published for opposition in Volume 79, No. 45 of the Official Gazette dated November 7, 1983 which was released, for circulation only on February 3, 1984, which application was duly opposed by the herein Petitioner in Inter Partes Case No. 1815. Subsequently, on October 1, 1985, Decision No. 85-64 (TM) was issued declaring the existence of confusing similarity between the Opposer's (Petitioner's) mark and that of Respondent-Applicant's (Respondent-Registrant's) mark, this Office is constrained to reject or refuse the trademark application filed by Respondent-Applicant (Respondent-Registrant) herein".

Hence, the filing of this Petition on May 20, 1985 seeking the cancellation of the advertised trademark registered in the Supplemental Register in favor of Respondent-Registrant.

For failure to file Answer within a reasonable time despite notice, Respondent-Registrant was declared in default on May 30 upon motion filed by Petitioner on May 29, 1986. On August 25, 1986, Petitioner through counsel was allowed to present the following evidences ex-parte:

Exhibits "A" and "A-1" -

Decision No. 85-64 (TM) in Inter Partes Case No. 1815 and Notice of Decision.

Exhibit "B" -

"JORDACHE" & HORSEHEAD DEVICE" label.

Exhibits "C" and "C-1" -
"HORSEHEAD & HORSEHEAD DEVICE" labels.

Pursuant, to the Decision issued in Inter Partes Case No. 1815 between identical parties, subject matter, and issue and adhering to the doctrine of res judicata (bar by prior judgment), this Petition is hereby GRANTED and Registration Certificate No. SR-4579 ordered CANCELLED.

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

SO ORDERED.

IGNACIO S. SAPALO
Director