

LA CHEMISE LACOSTE S.A.
Petitioner,

INTER PARTES CASE NO. 1999

PETITION FOR CANCELLATION

Cert. of Regn. No. SR-4977
Issued : September 19, 1980
Registrant : Wilson Chua
Trademark : SKIVA & ALLIGATOR
DEVICE
Used on : T-shirts, polos, jeans,
etc.

INTER PARTES CASE NO. 2000

PETITION FOR CANCELLATION

Cert. of Regn. No. SR-2843
Issued : June 7, 1977
Registrant : Wilson Chua
Trademark : SKIVA & ALLIGATOR
DEVICE

- versus -

- and -

INTER PARTES CASE NO. 2001

PETITION FOR CANCELLATION

Cert. of Regn. No. SR-4461
Issued : January 9, 1980
Registrant : Wilson Chua
Trademark : SKIVA & ALLIGATOR
DEVICE
Used on : Bags, belt,

headbands,

shoes

WILSON CHUA

Respondent-Registrant.

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Decision No. 88-96 (TM)
August 30, 1988

DECISION

La Chemise Lacoste S.A., a French limited company, filed Petitions for Cancellation (Inter Partes Cases Nos. 1999, 2000 and 2001) of Certificates of Registration Nos. SR-4977, SR-2843 and SR-4461 issued to Wilson Chuan, a

Filipino citizen, for the trademark "SKIVA & ALLIGATOR DEVICE" used on goods under Classes 10, 18, 25, 26 and 28.

For failure to file his Answers to the Petitions, and upon motions of Petitioner, Respondent-Registrant was declared in default and Petitioner was accordingly allowed to present its evidence ex-parte (Orders Nos. 87-236, 87-237 and 87-329).

Inter Partes Cases Nos. 1999, 2000 and 2001 were consolidated, likewise upon motions of Petitioner, because the parties, trademarks, and issues involved were the same (Order NO. 87-328).

Petitioner argues, among others, that it is the owner by prior adoption and use of the trademark "LACOSTE", "CROCODILE or ALLIGATOR DEVICE" and "LACOSTE & CROCODILE DEVICE"; that such ownership has been recognized by this Bureau in Decisions Nos. 84-99 and 84-100 (Exhs. "H" and "I", and by the Court of Appeals and Supreme Court in the respective cases of La Chemise Lacoste S.A. vs. Sam Sadhwani (CA-G.R. SP No. 13359, June 17, 1983) and La Chemise Lacoste S.A. vs. Fernandez (129 SCRA 373; Exh. "F"); and that Respondent-Registrant's trademark registrations should be cancelled under Section 19-A of Republic Act 166, as amended, and pursuant to Memorandum dated November 20, 1980 of the then Ministry of Trade.

Petitioner, however, does not claim ownership of the word "SKIVA" in Respondent-Registrant's trademark "SKIVA & ALLIGATOR DEVICE". It only seeks a recognition of its exclusive ownership of the trademark "CROCODILE or ALLIGATOR DEVICE".

The pertinent portions of the Supreme Court decision in the La Chemise Lacoste S.A. vs. Fernandez case (Exh. "F" states as follows:

"The Intermediate Appellate Court in the La Chemise Lacoste S.A. v. Sadhwani decision which we cite with approval, sustained the power of the Ministry of Trade to issue the implementing memorandum and, after going over the evidence in the records, affirmed the decision of the Director of Patents declaring La Chemise Lacoste S.A. the owner of the disputed trademark and crocodile or alligator device.

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We have carefully gone over the records of all the cases filed in this Court and find more than enough evidence to sustain a finding that the petitioner is the owner of the trademarks 'LACOSTE', 'CHEMISE LACOSTE', the crocodile or alligator device, and the composite mark of LACOSTE and the representation of the crocodile or alligator. Any pretensions of the private respondent that he is the owner are absolutely without basis. Any further ventilation of the issue of ownership before the Patent Office will be a superfluity and a dilatory tactic."

In view of the foregoing, and considering that this Bureau has already recognized Petitioner's ownership of the trademark "CROCODILE DEVICE" in Decisions Nos. 84-99 and 84-100 (Exhs. "H" and "I"), said ownership is AFFIRMED.

WHEREFORE, the Petitions are GRANTED; Certificates of Registration Nos. SR-4977, SR-2843 and SR-4461 are CANCELLED.

Let the records of these cases be remanded to the Patent, Trademark Registry and EDP Division for appropriate action in accordance with this Decision.

SO ORDERED.

IGNACIO S. SAPALO
Director