

MANOLITA V. LIM,
Junior Party-Applicant,

INTER PARTES CASE NO. 3191

INTERFERENCE BETWEEN:
Application Serial No. 46095
Filed : September 8, 1981
Trademark : DIANA
Applicant : Manolita V. Lim
Used on : Panties

- verus -

- and -

Application Serial No. 45798
Filed : August 17, 1981
Trademark : DIANA
Applicant : MB Garment
Manufacturing, Inc.
Used on : Panties, bikinis, bras,
lingeries, half slips,
panty-lets, blouses, T-
shirts, gowns and shorts

MB GARMENT MANUFACTURING INC.,
Junior Party-Applicant.

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DECISION NO. 89-88 (TM)
October 27, 1989

DECISION

This is an interference case declared by the Bureau between Application Serial No. 45798 filed on August 17, 1981 by MB Garment Manufacturing, Inc., the herein Senior Party-Applicant, for the trademark "DIANA" used on panties, bikinis, bras, lingerie, half slips, pantylets, blouses, T-shirts, gowns, shorts; and Application Serial No. 46095 filed on September 8, 1981 by Manolita V. Lim, the herein Junior Party-Application, for the same trademark "DIANA & DEVICE" used on panties.

Senior Party-Applicant is a corporation with business address at 1st Q. C. insurance Building, 105 E. Rodriguez Avenue, Quezon City, while Junior Party-Applicant is a Filipino citizen with business address at 2436 Tomas Earnshaw, Gagalangin, Tondo, Manila.

On July 27, 1988, the parties were directed to file within forty (40) days from receipt of the Notice of Interference a motion to dissolve or other motions, similar in character, pursuant to Rule 183 of the Rules of Practice in Trademark Cases.

Both notices to Senior Party and Junior Party Applicants were returned to this Bureau unserved.

On February 20, 1989, the Bureau sent to both parties, by registered mail with Return Card No. 1660 for Senior Party Applicant and Return Card No. 1661 for Junior Party-Applicant, a Notice of Pre-Trial Conference to be held before this Bureau on March 22, 1989 at 9:00 A.M. At the scheduled pre-trial hearing (March 22, 1989), counsel for Senior Party-Applicant appeared while no one appeared for the Junior Party.

For failure of Junior Party-Applicant to appear at the March 22, 1989 hearing, the parties were sent on March 30, 1989 a Notice of Hearing to be held on April 27, 1989. Again, counsel for

Senior Party-Applicant appeared while Junior Party made no appearance. This prompted Senior Party Applicant to file a motion to dissolve in its favor the herein interference.

A review of the records shows that Senior Party- Applicant is ahead in both the filing of its application and the date of first use, as hereunder illustrated:

	<u>Date Filed</u>	<u>Date of First Use</u>
Senior Party-Applicant	August 17, 1981	June 2, 1979
Junior Party-Applicant	September 8, 1981	September 8, 1980

Considering that the marks involved are still in the application stage, the parties concerned are supposed to look after their respective interests. They have to make follow-ups, know the status of their applications, comply with whatever processes the Bureau may impose upon them, and to inform this Bureau of any change of address, etc.

For failure of the Junior Party to abide by the foregoing duties of an applicant, she is hereby deemed to have lost interest in the prosecution of her application pursuant to Rule 85 of the Rules of Practice in Trademark Cases.

WHEREFORE, this interference case is DISSOLVED in favor of Senior Party-Applicant. Junior Party's Application Serial No. 46095 is hereby declared ABANDONED.

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

SO ORDERED.

IGNACIO S. SAPALO
Director