

LOU DIFFUSION, S.A.,
Opposer,

INTER PARTES CASE NO. 3268

OPPOSITION TO:

- versus -

Application Serial No. 60648
Filed : December 23, 1986
Applicant : Concordia B. Garcia
Trademark : "ANGEL LOU & FLOWER
DESIGN"
Used on : Leotards, tights, shorts,
T-shirts and
undergarments

CONCORDIA B. GARCIA,
Respondent-Applicant.

x-----x

DECISION NO. 89-28 (TM)
May 19, 1989

DECISION

Lou Diffusion, S.A. filed on January 26, 1989 a Notice of Opposition against the registration of the trademark "ANGEL LOU & FLOWER DESIGN" used on leotards, tights, shorts, T-shirts and undergarments applied for by Concordia B. Garcia on December 23, 1986 under Application Serial No. 60648 published on Page 96, Volume I, No. 7 of the BPTT official Gazette dated September 27, 1988 which was released for circulation on September 30, 1988.

Opposer is a French corporation doing business at 91 Avenue Dela Reblique, 75011 Paris, France, while Respondent-Applicant is a Filipino citizen doing business at 1112 EDSA, Balintawak, Quezon City, Philippines.

The grounds alleged in the Notice of Opposition are:

"(1) The opposer is the owner of the trademark 'Lou' which also forms part of its corporate name, which it applied for registration per Serial No. 58805, for clothes and articles of underclothing and which was also registered in France per Reg. No. 1006818 issued on October 15, 1967 and is still in force up to the present.

(2) The goods covered by opposer`s trademark are similar to those of respondent-applicant x x x.

(3) Respondent-applicant`s alleged the mark 'Angel Lou' is deceptively or confusingly similar to Opposer`s trademark 'Lou' in all aspects.

(4) As owner and prior user of the trademark 'Lou' which is a well known trademark and trade name worldwide of Opposer, Opposer has the exclusive right to use not only the trademark 'Lou' but also to exclude any other person or entity from using any similar mark such as 'Angel-Lou' x x x.

(5) The registration of respondent-applicant`s alleged trademark 'Angel Lou' will violate provisions of Republic Act No. 166, as amended, particularly Section 4 thereof x x x."

In its Answer filed on December 6, 1988, Respondent-Applicant alleged that:

x

x

x

2. Respondent-Applicant's trademark 'Angel Lou' is not deceptively or confusingly similar to Opposer's trademark 'Lou' in all aspects as claimed by Opposer, except for the fact that it may be a family name, adopted as a corporate name of the owner. By comprising the sounds of the two trademarks in question, there exists a marked difference, especially when the sound and appearance of the two are likely to be different as they are presented in their respective labels; x x x.

x

x

x

4. In the event that Respondent-Applicant's applied trademark would appear to be violative of any law, she has no intent whatsoever so to do, and she is ever willing to adopt, use, alter, change or modify the same to conform to what should be the proper mark acceptable to the Opposer."

The case was set for pre-trial conference on February 28, 1989 but was reset to March 14, 1989 at the insistence of Respondent-Applicant.

At the March 14 Hearing, the Parties exerted efforts to settle amicably the case. Respondent-Applicant, with the assistance of counsel, made several proposals to Opposer's counsel for transmittal and approval of his client abroad.

On April 28, 1989, the parties submitted in open court their deed Amicable Settlement jointly signed by the parties and their counsels, the terms and condition of which are:

"(1) Respondent-applicant is willing to change, as she hereby changes, her trademark "ANGEL LOU & FLOWER DESIGN" to "ANGEL LOI & FLOWER DESIGN" and for the reason she hereby amends her application for the registration of the said trademark to the effect that the trademark to be registered should now be "ANGEL LOI & FLOWER DESIGN".

(2) That in view of Respondent-Applicant's changing her trademark from "ANGEL LOU & FLOWER DESIGN" to "ANGEL LOI & FLOWER DESIGN", Opposer is now withdrawing its Opposition to the registration by Respondent-Applicant of "ANGEL LOI & FLOWER DESIGN"."

The above provisions, being fair and equitable to both parties and not against sound public policy, is hereby APPROVED as basic for the amicable settlement of this case.

WHEREFORE, this opposition case is DISMISSED. Accordingly, Application Serial No. 60648 for the trademark "ANGEL LOU & FLOWER DESIGN" shall be amended to "ANGEL LOI & FLOWER DESIGN" and is hereby given due course as such.

Let the records of this case be forwarded to the Application, Issuance & Publication Division for Appropriate Action in accordance with this Decision.

SO ORDERED.

IGNACIO S. SAPALO
Director