

OBERON MEDIA (UK) LIMITED  
(formerly DIGITAL BRIDGES  
2009  
LIMITED)

Petitioner,

- versus -

IP E-GAME VENTURES, INC.,  
Respondent-Registrant.  
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IPC No. 14-2009-00242  
Case Filed: 13 October

Petition for Cancellation:

Reg. No. 4-2008-000520  
TM: "I PLAY"

Decision No. 2010-84

## DECISION

OBERON MEDIA (UK) LIMITED (formerly DIGITAL BRIDGES LIMITED), a company organized under the laws of England and Wales with principal place of business at S Pitreavie Court, Pitreavie Business Park, Dunfermline, United Kingdom KY 11 UU, filed on IS October 2009 a verified a Petition for Cancellation of Trademark Registration No. 4-2008000520. The trademark registration issued on IS October 2008 to IP E-GAME VENTURES, INC. ("Respondent-Registrant"), a corporation organized and existing under the laws of the Republic of the Philippines with principal place of business at 34/F Tower II, RCBC Plaza, 6819 Ayala Avenue, Makati City, Metro Manila, Philippines, covers the mark "I PLAY" for use on services under Class 35<sup>1</sup> namely, "*advertising, updating of advertising material; dissemination of advertising matter, communication media (presentation of goods) for retail purposes, computer data bases (compilation of information) consumers (commercial information and advice for] consumer advice shop*".

The Petitioner alleges the following:

"2 . The Petitioner does business using the name 'I-PLAY' and owns and operates a website located at <http://www.i-play.com> which is readily accessible to anyone with an internet connection, including to Filipinos and Philippine-based internet service users, and is a prominent developer and provider of downloadable games. Petitioner, using the name and mark 'I-PLAY' provides mobile games through a network of more than one hundred twenty (120) cellular and mobile device carriers worldwide. Petitioner has been developing mobile games since 1998, and has been offering and selling such games directly to users in the Philippines since as early as the year 2007, through its Philippine distributor, Information Gateway. Each game offered/provided by the Petitioner has a splash-screen that shows Petitioner's 'I-PLAY' mark. In support of the assertion pertaining to the existence of a distributorship arrangement and distribution in the Philippines of products/services bearing the Petitioner's ' I-PLAY' mark, attached and marked hereto as Petitioner's Exhibits 'A' to 'A-1' respectively to form integral parts hereof, are (a) a notarized and duly legalized certification from Mr. Jordan Goldstein, Company Secretary of the Petitioner, attesting that (b) the accompanying Distribution Agreement between Petitioner and an entity known as Information Gateway, dated November 29, 2006, is a true and correct copy of the original Agreement.

"4. Respondent is the Registrant of the mark 'I Play' for 'Advertising, updating of advertising materials, dissemination of advertising matter, communication media (presentation of goods) for retail purposes, computer data bases (compilation information and advice for), consumer advice shop' all falling under International Class 35 that was registered on 13 October

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<sup>1</sup> The Nice Classification is a classification of goods and services for the purpose of registering trademarks and service marks, based on a multilateral treaty administered by the World Intellectual Property Organization. The treaty is called the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks concluded in 1957

2008 bearing Reg. No. 4-2008-000520. Respondent-Registrant purportedly operates the Philippine-based information technology (IT) firm known as IPVG Corp.

“5. Via press release(s) made sometime in December 2007, Respondent-Registrant announced that two Philippine companies, namely GMA Network, Inc. and IPVG Corp., through their respective subsidiaries, would be forming a joint venture company to be named, ‘I-Play, Inc.’ which would engage in online gaming starting the year 2008. Marked and attached hereto as Petitioner’s Exhibit ‘D’ to form an integral part hereof, is a print-out of a news item/story entitled ‘GMA Network, IPVG announce gaming joint venture’ dated December 22, 2007, that was downloaded from the Inquirer.Net website.

The grounds relied for the petition are as follows:

“6. The Respondent-Registrant’s registration of its mark ‘I PLAY’ contravenes Section 123.1 sub-paragraph (e) of Republic Act No. 8293 (‘R.A. No. 8293’ or the ‘IP Code’)

“7. The mark ‘I-PLAY’ is identical and so resembles the Opposer’s ‘ I-PLAY’ mark, as to be likely when applied to or used in connection with the Respondent-Applicant’s sought-to-be-covered Class 35 services, to likely deceive or cause confusion with Petitioner’s goods and/or services bearing its ‘I-PLAY’ mark.

“8. The use by Respondent-Registrant of the mark ‘I-PLAY’ on services that are similar, identical or closely related to the goods/services that are produced by, originate from, offered by, or are under the sponsorship of herein Petitioner bearing the latter’s ‘I-PLAY’ ‘IPLAY’ and “I-play’ mark will greatly mislead the purchasing/consumer public into believing that Respondent-Registrant’s services are produced by, originate form, or are under the sponsorship of herein Petitioner.

“9. Petitioner has not abandoned the use in other countries around the world, including here in the Philippines, of its ‘I-PLAY’, ‘IPLAY’ and I-play’ mark.

“ 10. Petitioner submits that its ‘I-PLAY’, ‘IPLAY’ and “I-play’ mark are well-known mark which are entitled to broad protection under Article 6bis of the Paris Convention for the Protection of Industrial Property (the ‘Paris Convention’) and Article 16 of the Trade-Related Aspects of Intellectual Property (the ‘TRIPS Agreement’), to which the Philippines and the United Kingdom are signatories.

“11. The registration of Respondent-Registrant’s ‘ I-PLAY’, ‘IPLAY’ and “I-play’ mark contravenes the provisions of R.A. No. 8293, the Paris Convention and the TRIPS Agreement, hence is subject to non-allowance for registration under the pertinent provisions of said laws .

“Petitioner relies upon and shall prove, among others, the following:

(a) The Petitioner is the true owner of the mark ‘I-PLAY’ mark which has been registered in the Petitioner’s name and/or is the subject of applications for registration, to wit:

Country of Registration/ Application No.	Registration No./ Application	Date of Registration/ Application	Classes/ Goods/ Services Covered
1. United Stats of America (U.S.A.)	U.S. Federal Registration No. 2,643,124	October 29, 2002	4.1 – ‘providing online interactive computer games that may be accessed via a global computer network’
2. U.S.A.	Serial/ Application No. 78/ 75,932	November 11, 2005	9 -‘Electric publications, publications, publications provided on-line; computer hardware; computer software; computer hardware and software for

		<p>entertainment content for use on and with wireless communication devices; computer hardware, programs and software downloadable from a global communications network; computer software and telecommunications apparatus to enable connection to a computer database or a global communications network; computer games and entertainment software, computer games and devices and wireless communications devices; computer games and entertainment software downloadable from a global communication network; computer programs, CDs . CD-ROMs; electronic and optical and magnetic data recording means; sound video and data recordings; records, discs, tapes, cassettes, cartridges and cards, all bearing or for use in bearing data, sound, images, graphics, text programs or information; mobile telephones enabled to operate using Wireless Application Protocols; computer apparatus and programs for use In connection with wireless communications means; computer network apparatus and installations for the communication of data; security apparatus for computer hardware and software'</p> <p>38- 'Telecommunications services, mobile and wireless telephone communication services, provision of electronic mail and messaging services; provision of user access and telecommunications connections to global communication networks; telecommunication of information via a global computer network; computer network communication services; leasing of telecommunications lines; leasing of telecommunication lines for access to computer networks; consultancy services relating to all the aforesaid services'</p> <p>41- 'Entertainment services; provision of entertainment, by means of wireless communication devices, apparatus and instruments, provision of entertainment by means of a communication network or a computer-based system; provision of information relating to entertainment; provision of information relating to</p>
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			entertainment and entertainment by means of wireless communication devices, apparatus and instruments and by means of a global communications network or a computer database'
3. Office for Harmonization in the Internal Market ("OHIM)	4163572	03/02/06	<p>9- 'Electronic publications, publications provided on-line; computer hardware; computer software; computer hardware and software for entertainment content; computer hardware and software for entertainment content for use on and with wireless communication devices; computer software supplied from a computer database or a global communications network; computer software and telecommunication apparatus to enable connection to a computer database or a global communications network; computer games entertainment software; games entertainment software for use in conjunction with wireless communication means; computer games programs and software downloadable from a global communications network; computer programs; CDs, CD-ROMs, interactive CD-ROMs; electronic, optical and magnetic data recording means; sound video and data recordings; records, disc, tapes, cassettes, cartridges and cards all bearing or for use in bearing data, sound, images, games, graphics, text, programs or information; mobile telephones; mobile telephones enabled to operate Wireless Application Protocols; computer apparatus and programs for use in connection with wireless communications means; computer network apparatus and installations for communication of data , security apparatus for computer software and hardware'</p> <p>38- 'Telecommunications services, mobile and wireless telephone communication services; provision of electronic mail and messaging services; provision of user access and telecommunications connections to global communication networks; telecommunication of information via a global communication network; telecommunication of information via a</p>

			<p>global communications network; computer network communication services; leasing of telecommunications lines; leasing of telecommunications lines for access to computer networks; consultancy services relating to all of the aforesaid services'</p> <p>41-'Entertainment services; provision of entertainment by means of wireless communication devices, apparatus, and instruments; electronic games services; electronic games services provided by means of a communications network or a computer-based system; provision of information relating to entertainment and electronic games; provision of information relating to entertainment, entertainment by means of wireless communication devices, apparatus and instruments and electronic games services via a global communications network or a computer database'</p>
4. OHIM	4513057	06/28/2005	<p>9-' Electronic publications, publications provided on-line; computer hardware; computer software; computer hardware and software for entertainment content; computer hardware and software for entertainment content for use on and with wireless communication devices; computer hardware, programs and software downloadable from a global communications network; computer software supplied from a computer database or a global communications network; computer software and telecommunications apparatus to enable connection to a computer database or a global communications network; computer programs; CDs, CD-ROMs, interactive CD-ROMs; electronic, optical and magnetic recording means ; sound, video, and data recordings; records, discs, tapes, cassettes, cartridges and cards, all bearing or for use in bearing data, sound, images, graphics, text, programs or information; mobile telephones; mobile telephones enabled to operate using Wireless Application Protocols; computer apparatus and programs for use in connection with wireless communications means; computer</p>

			<p>network apparatus and installation for the communication of data; security apparatus for computer software and hardware'</p> <p>41-' Entertainment t services; provision of entertainment by means of wireless communications devices, apparatus, and instruments; pro vision of entertainment by means of a communications network, or a computer-based system; provision of information relating to entertainment; provision of information relating to entertainment and entertainment by means of wireless communication devices, apparatus and instruments and by means of a global communications network or a computer database</p>
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Certified true copies of the afore-enumerated registration certificate(s)/ applications are marked and attached hereto as Petitioner's Exhibits 'E' to 'H', to form integral parts hereof

- (b) Petitioner has been commercially using its 'I-PLAY', 'IPLAY' and I-play' marks in the United States and elsewhere around the world since 2005, and in the Philippines since 2007, which use antedates the use, if any, made of Respondent-Registrant of its 'I PLAY' mark.
- (c) In support of Petitioner's claims that [i] it is the originator of the ' I-PLAY' 'IPLAY' and I-play' marks; [ii] the date/period of first use thereof; [iii] products/services bearing said marks have been distributed, offered for sale, sold in many jurisdictions around the world, by virtue of which the Opposer has made extensive use worldwide of its ' I-PLAY' mark , Opposer manifests that for the fiscal years 2005-2007, it had made over UK £41,999,000.00 in worldwide sales of various products/services bearing said mark . Marked and attached hereto as Petitioner's Exhibit 'J' to form an integral part hereof, is a duly executed, notarized and legalized Affidavit of Tomer Ben-Kiki, one of Opposer's Directors, attesting to the foregoing matters/sales figures.
- (d) In further support of Petitioner's claim that its 'I-PLAY', 'IPLAY' and I-play' mark have gained international notoriety, it asserts that it has undertaken and made extensive publicity and promotions of said mark in internationally-circulated publications and/or its websites such as The Guardian, Mobile Entertainment, MCV, Mobile Games Analyst, What Mobile, DMEurope and GamesIndustry.biz. The earliest example of an advertisement taken out/posted by the Opposer is one that appeared in ME:Mobile Entertainment on or around April 4, 2005. A certified true copy of this advertisement, is marked and attached herewith as Petitioner's Exhibit '2-2', to form an integral part hereof The duly executed, notarized and legalized Affidavit of Petitioner's witness that is identified as Petitioner's Exhibit 'J' in subparagraph (c) supra, includes copies/webpage print-out of sample advertisements featured in various publications/Opposer's website made around the world.
- (e) By spelling, representation and appearance, the mark 'I-PLAY' bearing Reg. No. 4-2008000520 is identical to and/or confusingly similar to the Petitioner's marks, 'I-PLAY', 'IPLAY' and I-play'.

- (f) Petitioner continues to use its 'I-PLAY', 'IPLAY' and I-play' marks worldwide, including here in the Philippines.
- (g) By virtue of the prior and continued use of the 'I-PLAY' 'IPLAY' and I-play' marks in the Philippines and other countries around the globe made by herein Petitioner, said mark has become popular and internationally well-known and has established valuable goodwill for the Petitioner with the general purchasing/consumer public, which has identified Petitioner as the owner and the source of goods bearing said mark.
- (h) In connection with the Petitioner's policy to protect its rights over its 'I-PLAY', 'IPLAY' and I-play' marks, Petitioner filed on January 12, 2009 before this Honorable Office, an Opposition to Respondent-Registrant's application for registration of the mark 'I Play' bearing application No. 4-2008-000521, that was docketed as IPC No. 14-2009-00012. In support of this assertion, attached and marked hereto as Petitioner's Exhibit ' X', is a duplicate original of this Honorable Office's Notice to Answer dated February 9, 2009.

This Bureau issued on 12 November 2009 a Notice to Answer and served a copy thereof upon the Respondent-Applicant on 18 November 2009. The Respondent-Applicant did not file an Answer. Rule 2, Section 11 of the Regulations on Inter Partes Cases, as amended, provides:

Section 11. Effect of failure to file an answer. -In case the Respondent-Applicant fails to file an answer, or if the answer is filed out of time, the case shall be decided on the basis of the Petition or Opposition, the affidavit of the witness and documentary evidence submitted by Petitioner or Opposer.

Should Trademark Registration No. 4-2008-000520 be cancelled?

It is undisputed that the competing marks are identical. The Respondent-Registrant's trademark registration covers *“advertising, updating if advertising material, dissemination if advertising matter, communication media (presentation if goods for retail purposes, computer data bases (compilation of information] consumers (commercial information and advice for) consumer advice shop”*, services that are similar or closely related to the Petitioner's, to wit:

1. “providing online interactive computer games that be accessed via a global computer network”,
2. “Electric publications, publications, publications provided on-line; computer hardware; computer software; computer hardware and software for entertainment content for use on and with wireless communication devices; computer hardware, programs and software downloadable from a global communications network; computer software and telecommunications apparatus to enable connection to a computer database or a global communications network; com games and entertainment software; computer games and devices and wireless communications devices; computer games and entertainment software downloadable from a global communication network; computer programs, CDs, CD-ROMs; electronic and optical and magnetic data recording means; sound video and data recordings; records, discs, tapes, cassettes, cartridges and cards, all bearing or for use in bearing data, sound, images, graphics, text programs or information; mobile telephones enabled to operate using Wireless Application Protocols; computer apparatus and programs for use in connection with wireless communications means; computer network apparatus and installations for the communication of data; security apparatus for computer hardware and software”,
3. “Telecommunications services; mobile and wireless telephone communication services; provision of electronic mail and messaging services; provision of user

access and telecommunications connections to global communication networks; telecommunication of information via a global computer network; computer network communication services; leasing of telecommunications lines; leasing of telecommunication lines for access to computer networks; consultancy services relating to all the aforesaid services”; and

4. “Entertainment services; provision of entertainment, by means of wireless communication devices, apparatus and instruments; provision of entertainment by means of a communication network or a computer-based system; provision of information relating to entertainment; provision of information relating to entertainment and entertainment by means of wireless communication devices, apparatus and instruments and by means of a global communications network or a computer database”.

The Respondent-Registrant’s computer data bases (compilation of information) is a general category that could refer to electronic publications; computer hardware and software for entertainment content; computer programs in general; or computer games, and all of these are some of the Petitioner’s goods and/or services. The Respondent-Registrant’s services for advertising/dissemination of advertising matter; communication media (presentation of goods) for retail purposes; and commercial information and advice for consumers/consumer advice shop could refer to electric publications or publications provided on-line; computer programs; sound video and data recordings; records, discs, tapes, cassettes, cartridges and cards bearing data, sound, images, graphics, texts, programs, or information; telecommunications services; and electronic mail and messaging, all of which may be used for advertising, and these are some of petitioner’s services.

Hence, the services offered to the public bearing the mark “I PLAY” would likely create an impression that there is only one originator or provider thereof The term or phrase “I PLAY” gives the same visual and aural impressions to the public’s mind in the light of the services to which they are used respectively by the parties.<sup>2</sup> The consumers may assume that the Respondent-Registrant’s services originate from or are connected to or associated with the Petitioner and *vice-versa*. The likelihood of confusion would then subsist not only on the public’s perception of services but on the origins thereof as held by the Supreme Court:<sup>3</sup>

Callman notes two types of confusion. The first is the confusion of goods in which event the ordinarily prudent purchaser would be induced to purchase one product in the belief that he was purchasing the other. In which case, defendant’s goods are then bought as the plaintiffs and the poorer quality of the former reflects adversely on the plaintiff’s reputation. The other is the confusion of business. Here, though the goods of the parties are different, the defendant’s product is such as might reasonably be assumed to originate with the plaintiff, and the public would then be deceived either into that belief or into belief that there is some connection between the plaintiff and defendant which, in fact does not exist.

Accordingly, the competing marks as belonging to two (2) different proprietors should not be allowed to co-exist. Sec. 138 of Rep. Act No. 8293, also known as the Intellectual Property Code of the Philippines (“IP Code”), states:

Sec. 138. *Certificates of Registration.* -A certificate of registration of a mark shall be prima facie evidence of the validity of the registration, the registrant’s ownership of the mark, and of the registrant’s exclusive right to use the same in connection with the goods or services and those that are related thereto specified in the certificate

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<sup>2</sup> *Mc Donald's Corporation v. MacJoy Fast food Corporation*, G. R. No. G .R. No. 166115. 02 February 2007; *McDonalds Corporation v. L. C. Big Mak, Inc.*, G. R. No. 143993, 18 August 2004.

<sup>3</sup> See *Converse Rubber Corporation v. Universal Rubber Products, Inc., et al.*, G.R. No. L-27906, 08 Jan. 1987.



Corollarily, Sec. 151, IP Code, states in part that:

Sec. 151. *Cancellation.* -151.1. A petition to cancel a registration of a mark under this Act may be filed with the Bureau of Legal Affairs by any person who believes that he is or will be damaged by the registration of a mark under this Act as follows:

(a) Within five (5) years from the date of the registration of the mark under this Act. x x

Thus, although a certificate of registration is prima facie evidence of the registrant's ownership of a mark, this presumption can be overcome by contrary evidence. The law allows any person to file a petition to cancel a trademark registration if that person believes that he would be damaged by the registration. Once filed, the cancellation proceeding becomes, basically, a review of the trademark registration in question to determine if the legal requirements for registration have been satisfied and if the maintenance or continuance of Respondent-Registrant's trademark in the trademark registry would damage the Petitioner.<sup>4</sup> The Supreme Court held:

"By itself, registration is not a mode of acquiring ownership. When the applicant is not the owner of the trademark being applied for, he has no right to apply for registration of the same. x x x

"Registration, without more, does not confer upon the registrant an absolute right to the registered mark. The certificate of registration is merely a prima facie proof that the registrant is the owner of the registered mark or trade name, Evidence of prior and continuous use of the mark or trade name by another can overcome the presumptive ownership of the registrant and may very well entitle the former to be declared the owner in an appropriate case."<sup>5</sup>

Aptly, it is emphasized that the essence of trademark registration is to give protection to the owners of trademarks. The function of a trademark is to point out distinctly the origin or ownership of the goods (or services) to which it is affixed; to secure to him, who has been instrumental in bringing into the market a superior article of merchandise, the fruit of his industry and skill; to assure the public that they are procuring the genuine article (services); to prevent fraud and imposition; and to protect the manufacturer against substitution and sale of an inferior and different article as his product (services).<sup>6</sup> Thus, the right to register trademarks, trade names and service marks is based on ownership. Only the owner of the mark may apply for its registration.

The Petitioner submitted evidence that it has been using the mark prior to the filing of the Respondent-Registrant's application on 15 January 2008. The legalized copy of a Wireless Games Agreement shows that it entered into a contract with Information Gateway, Incorporated for the latter to distribute petitioner's games.<sup>7</sup> The games are downloaded on mobile phone devices through a server of Information Gateway, Incorporated that is made possible by portals such as the wireless application protocol (WAP) or other web sites. In essence, petitioner's goods and/or services are coursed through the use of the internet. In this regard, the Petitioner also submitted in evidence a legalized affidavit of its Director, Tomer Ben-Kiki, testifying that its website was visited by individuals in the Philippines between 10 January 2007 to 10

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<sup>4</sup> Sec. 154 of the IP Code provides: 154. *Cancellation of Registration.* -If the Bureau of Legal Affairs finds that a case for cancellation has been made out, it shall order the cancellation of the registration. When the order or judgment becomes final, any right conferred by such registration upon the registrant or any person in interest of record shall terminate. Notice of cancellation shall be published in the IPO Gazette. (Sec. 19, R.A. No. 166a)

<sup>5</sup> Shangri-La International Hotel Management, Ltd., v. Developers Group of Companies, Inc., G.R.No. 159938, 31 March 2006.

<sup>6</sup> Pribhdas J. Mirpuri v. Court of Appeals, G.R. No. 114508, 19 November 1999, citing Etepha v. Director of Patents, G.R. No. L-20635, 31 March 1966.

<sup>7</sup> Exhibit "C" and "C-1"

January 2008<sup>8</sup>. The affidavit is corroborated by a downloaded<sup>9</sup> copy of the list of “hits” in specific cities in the Philippines received by the Petitioner in its website.<sup>10</sup> Also, a downloaded copy of a page in the Petitioner’s website in partnership with Globe Telecoms shows that the Petitioner’s games “The Fast and The Furious” and “Diner Dash” are among the most downloaded mobile games in the Philippines.<sup>11</sup>

The Petitioner likewise submitted documents to show its history as a limited company that conceived, or came up with the mark and concept of “I-PLAY” before the Respondent-Registrant applied for registration of the confusingly similar “I-PLAY” mark. These documents show, among other things, the following:

1. The Petitioner’s incorporation as a limited company on 29 April 1998 under the United Kingdom’s The Companies Act 1985<sup>12</sup>, and thenceforth, its continuous and unbroken existence<sup>13</sup>;
2. its trademark application and registration of the mark on 29 October 2002 in the United States Patent and Trademark Office (“USPTO”) covering services under Class 41<sup>14</sup>
3. its trademark application for the same mark on 11 November 2005 in the USPTO covering for goods and services in Classes 09, 38, and 41<sup>15</sup>;
4. its trademark application and registration of the mark on 02 March 2006 in the Office for Harmonization in the International Market (OHIM) covering goods and services under Classes 09, 28, and 41<sup>16</sup>;
5. its “I-PLAY” games being offered online since 2005<sup>17</sup>; and
6. various articles issued in 2005 by foreign media referring to the mark “I-PLAY” as a mark and concept that is the brainchild of the Petitioner in respect to the goods and/or services to the mark is attached<sup>18</sup>.

Hence, the records and evidence support a conclusion that the Petitioner is the entity that conceived, or came up with the mark “I-PLAY” long before the Respondent-Registrant filed a trademark application for the same mark. The Petitioner’s claim of ownership of the contested mark therefore, is superior to that of the Respondent-Registrant’s. The Respondent-Registrant despite the opportunity did not even bother to explain its side of the issue and to submit evidence.

Thus, considering that based on the records and evidence, the Respondent-Registrant is not the owner of the mark, said party has no right to register the contested mark.

It is incredible that the Respondent-Registrant came up with a mark that is exactly, or almost exactly the same as the Petitioner’s on pure coincidence. Being on the same line of goods, services, or business, it is a safe inference that the Respondent-Registrant has knowledge of the Petitioner’s mark prior to the filing of a trademark application. Yet, this is the

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<sup>8</sup> Exhibit J

<sup>9</sup> To “download” is “transfer data or programs from a server or host computer to one’s own computer or digital device” (Dictionary.Com.)

<sup>10</sup> Exhibit M

<sup>11</sup> Exhibit N

<sup>12</sup> Exhibit B

<sup>13</sup> *supra*

<sup>14</sup> Exhibit “E”

<sup>15</sup> Exhibit “F”

<sup>16</sup> Exhibit “H”

<sup>17</sup> Exhibits “N”, “P” and “R”

<sup>18</sup> Exhibit “R”

mark that the Respondent-Registrant reproduced down to the minutest details use in its favor, on goods and services that are similar to the Petitioner's.

The field from which a person may select a trademark is practically unlimited. As in all other cases of colorable imitations, the unanswered riddle is why, of the millions of terms and combinations of letters and designs available, the Respondent-Registrant had to come up with a mark identical or so closely similar to another's mark if there was no intent to take advantage of the goodwill generated by the other mark.<sup>19</sup>

The intellectual property system was established to recognize creativity and give incentives to innovations. Similarly, the trademark registration system seeks to reward entrepreneurs and individuals who through their own innovations were able to distinguish their goods or services by a visible sign that distinctly points out the origin and ownership of such goods or services.

WHEREFORE, premises considered, the instant Petition for Cancellation is hereby GRANTED. Let the filewrapper of Trademark Registration No. 4-2008-000520 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Makati City, 21 December 2010.

NATHANIEL S. AREVALO  
Director, Bureau of Legal Affairs

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<sup>19</sup> *American Wire & Cable Company v. Dir of Patents*, G.R. No. L-266557, 18 February 1970.