

CR MEDIA PTE LTD.,
Appellant,

-versus-

DIRECTOR OF THE BUREAU
OF TRADEMARKS,
Appellee.

X-----X

Appeal No. 04-2010-0006

Application No. 4-2006-010341
Date Filed: 18 September 2006

Trademark: LUXX

ORDER

CR MEDIA PTE. LTD., ("Appellant") filed on 29 April 2010 a "NOTICE OF APPEAL WITH MEMORANDUM OF APPEAL" seeking the reversal and setting aside of the decision of the Director of the Bureau of Trademarks ("Director"), dated 29 March 2010, denying the Appellant's application for the registration of the mark "LUXX". The next day, the Appellant filed a "MANIFESTATION", which showed that the Appellant paid the appeal fee of Five Thousand Fifty Pesos (P5,050.00) on 30 April 2010.

The appeal should be dismissed outright.

Section 5 (b) of the Uniform Rules on Appeal, as amended, provides that:

“Section 5. Action on the Appeal Memorandum. —

xxx

- b. The appeal shall be dismissed outright on any of the following grounds:
1. the appeal is filed out of time;
 2. the subject of the appeal is an interlocutor order, or is not a decision or final order;
 3. the appeal fee and other applicable fees are not paid within the reglementary period.”

A scrutiny of the records showed that the Appellant received a copy of the assailed decision on 30 March 2010. Pursuant to Sections 2 and 3 of the Unborn, Rules on Appeal, as amended¹, the Appellant has thirty (30) days or until 29 April 2010 to perfect the appeal. The Appellant filed the appeal on 29 April 2010, but, it did not pay the required fees.

The payment of the full amount of the docket fee is a requirement for the perfection of an appeal. In one case, the Supreme Court held that the court acquires jurisdiction over the case only upon the payment of the prescribed docket fees. The requirement of an appeal fee is not a

¹ Section 2. Appeal to the Director General.- The decisions or final orders of the Bureau Director shall become final and executory thirty- (30) days after receipt of a copy thereof by the parties unless, within the same period, a motion for reconsideration is filed with the Bureau Director or an appeal to the Director General has been perfected; Provided, that only one (1) motion for reconsideration of the decision or order of the Bureau Director shall be allowed; and, in case the motion for reconsideration is denied, the appellant or appellants has; have the balance of the period prescribed above within which to file the appeal.

Upon proper motion citing meritorious reasons and the payment of the full amount of appeal fee and other applicable fees before the expiration of the reglementary period to perfect an appeal, the Office of the Director. may grant an additional period of fifteen (15) days within which to file the appeal. No further extension of the period to file the appeal, however, shall be allowed.

Section 3. Appeal Memorandum- The appeal. shall be perfected filing or submitting in the Office of the Director General the following:

- a) an appeal memorandum in two (2) legible copies;
- b) proof of service of a copy of the appeal memorandum on the appellee(s) and the Bureau Director concerned; and
- c) payment of the appeal fee and other applicable fees.

mere technicality of law or procedure but all essential requirement without which the decision appealed from would become filial and executor, as if no appeal was filed at all.²

This Office also noticed that the handling lawyer of the Appellant's counsel did not indicate the pertinent information regarding his MCLE Certificate of Compliance or Certificate of Exemption. The Supreme Court Resolution on Bar Matter No. 1922, dated 03 June 2008, explicitly provides, among other things that:

“The Court further Resolved, upon the recommendation of the committee on Legal Education and Bar Matters, to REQUIRE practicing members of the bar to INDICATE in all pleadings filed before the courts or quasi-judicial bodies, the number and date of issue of their MCLE Certificate of Compliance or Certificate of Exemption, as may be applicable, for the immediately preceding compliance period. Failure to disclose the required information would cause the dismissal of the case and the expunction of the pleadings froth the records.” (Underscoring supplied)

Wherefore, premises considered, the instant appeal is hereby dismissed for reasons discussed above.

SO ORDERED.

May 19, 2010, Makati City.

RICARDO R.
BLANCAFLOR
Director General