

ESTELITA OPERANA,  
Opposer,

INTER PARTES CASE NO. 1647

OPPOSITION TO,

- versus

Application Serial No. 37716  
Filed : March 2, 1979  
Applicant : Sia Tian Un Trading  
Co.  
Trademark : QUEEN & CROWN  
DEVICE  
Used on : Vetsin, edible oil and  
noodles in Class 29

SIA TIAN UN TRADING CO.,  
Respondent-Applicant.

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DECISION NO. 88-66 (TM)  
August 4, 1988

DECISION

On March 2, 1979, Bia Tian Un Trading Co., a partnership under Philippine laws doing business at Cainta, Rizal, Metro manila, filed with this Bureau an application for the re-registration of the trademark "QUEEN & CROWN DEVICE" used on vetsin, edible oil and noodles, whose prior registration was cancelled for failure to file on time the Affidavit Use/Non-Use as required by law. Said application was assigned Serial No. 37716 and was published for opposition in the Official Gazette under Volume 78, No. 13, Page 1552 dated March 29, 1982 and officially released for circulation on April 30, 1982.

On May 26, 1982, Estelita Operana, Filipina and a resident of 357 MRR Road, Concepcion, Marikina, Metro Manila, filed the instant Opposition alleging, among others, that:

"1. That the trademark QUEEN & CROWN DEVICE which respondent-applicant seeks register is confusingly similar to opposer's registered trademarks QUEEN and QUEEN & CROWN DEVICE which are not abandoned;

4. That the registrant of the trademark QUEEN & CROWN DEVICE in favor of respondent-applicant will cause great and irreparable injury and damage to herein opposer pursuant to Section 8 of Republic No. 166, as amended."

Notices to answer were sent to Respondent-Applicant and its counsel but were returned with notations "MOVED CUT". Considering that opposition proceeding is an action in rem, this Bureau issued Order No. 82-842 dated December 3, 1982 directing Opposer to cause service of notice by publication; hence, the publication of the notice of opposition in the Filipino Time on June 10, 1983.

For failure to file the required Answer within the reglementary period, Respondent-Applicant, upon motion of the Opposer, was declared in default and thereafter was allowed to present its evidence ex-parte.

Admitted as Opposer's evidence are documentary exhibits consisting of the following:

Exhibits	-	Description
"A" "A1", "A2"	-	Photocopy of Certificate of Registration No. 15199 issued

And "A3"		On December 16, 1969 for the mark "QUEEN".
"B"	-	Photocopy of Certificate of Registration No. SR-118e issued On February 23, 1970 for the mark "QUEEN & CROWN DEVICE"
"B1", "B2"		
"B2-a" and "B3"		
"C" and "C1"	-	Affidavits of Use for Certificate Of Registration No. 15199 for the years 1975 and 1980, respectively.
"D" and "D1"	-	Affidavits of Use for Certificate of Registration No. SR-1182 for the years 1975 and 1980, respectively.

Records of our Patent/Trademark Registry and EDP Division indicate likewise that on April 14, 1966, this Bureau had issued to Respondent-Applicant Certificate of Registration No. 12242 for "QUEEN & CROWN DEVICE". Respondent, however, failed to file the 5<sup>th</sup> and 10<sup>th</sup> anniversary Affidavits of Use and as a result of which the registration was abandoned.

On March 2, 1979, Respondent-Applicant filed a registration application (Serial No. 37716) which is the subject of this Opposition.

The non-filing of the answer and motion to lift order of default despite notice is indicative of Respondent-Applicant's lack of interest in his application, thus he is deemed to have abandoned the same.

WHEREFORE, premises considered, the herein notice of opposition is hereby SUSTAINED. Accordingly, Application Serial No. 37716 for the re-registration of the mark "QUEEN & CROWN DEVICE" in favor of the herein Respondent-Applicant is hereby REJECTED.

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