

PAPER ONE, INC.,  
Respondent-Appellant,

-versus-

ASIA PACIFIC RESOURCES  
INT'L HOLDINGS, LTD.,  
Complainant-Appellee.

x-----x

Appeal No. 10-09-01

IPV No. 10-2004-0009  
For: Unfair Competition and  
Trademark Infringement with  
Damages

## DECISION

PAPER ONE, INC. ("Appellant") appeals die decision of the Director of the Bureau of Legal Affairs ("Director") finding the Appellant liable for unfair competition. The Director ordered the Appellant to cease and desist froth the marks "Paper One" or "Paperone" in its corporate name or adopting any substantial variations thereof in its paper business, and to pay ASIA PACIFIC RESOURCES INT'L HOLDINGS, LTD. ("Appellee") temperate and exemplary damages and attorney's fees.

Records show that the Appellee filed on 13 July 2004 a "COMPLAINT" for unfair competition, trademark infringement, and damages against the Appellant alleging the following:

1. It has an effective business establishment in Singapore which is a member of the Paris Convention for the Protection of Industrial Property ("Paris Convention") that grants similar privileges to corporate or juristic persons in the Philippines;
2. It owns Cert. of Reg. No. 4-1999-01957 issued on 05 September 2003 for the mark "PAPERONE" covering goods' falling under Class 16 of the Nice Classification;<sup>2</sup>
3. It is the owner of PAPERONE, a well-known trademark which enjoys legal protection in Benelux, Canada, the European Union, Estonia, France, Germany, Indonesia, Italy, Japan, Latvia, Morocco, New Zealand, Norway, Russia, South Korea, Taiwan and the United Kingdom; it holds the rights to at least 26 other applications/registrations for PAPERONE in different countries worldwide;
4. It is the first to use and register PAPERONE in the Philippines and either through a subsidiary or related company, it has exported or sold paper goods in the Philippines under the mark PAPERONE prior to the Appellant's incorporation; the export and sale of PAPERONE branded paper products in the Philippines continue to this date;
5. Even prior to die actual sale of PAPERONE products or the registration of this mark in die Philippines, PAPERONE has enjoyed goodwill and high reputation all around the world including the Philippines because of aggressive marketing and promotion undertaken by the Appellee and/or its importers, distributors and licensees world-wide; worldwide sales and advertising of PAPERONE branded products are coursed through various websites such as [www.paperone.com](http://www.paperone.com) and [www.paperoneshop.com](http://www.paperoneshop.com);
6. The Appellant is primarily, if not solely, engaged in the production and distribution of paper and stationery products, and given the public nature of the Appellee's trademark registration and the worldwide and local fame and notoriety of the Appellee's mark, the Appellant, through its officers, agents and/or representatives have presumptive if not actual knowledge of the Appellee's rights to die trademark PAPERONE, even prior to the Appellant's registration with the Securities and Exchange Commission ("SEC");
7. The Appellant's adoption and use of PAPERONE in its corporate name without obtaining prior consent and authority from the Appellee is clearly done in bad faith and is designed to unfairly ride on and take advantage of the goodwill established by the Appellee in the

Philippines and worldwide; the Appellant's unauthorized use of PAPERONE dilutes the Appellee's rights to this shark and is evidently calculated to mislead the public into believing that the Appellant's business and/or its products are manufactured, licensed or sponsored by the Appellee, or that the business of die parties are related;

8. The Appellant deals in the same identical paper products as that dealt in by the Appellee and on which the latter uses PAPERONE; since die corporate name adopted by the Appellant is identical to PAPERONE, the Appellant's use and adoption of its corporate name will likely influence purchasers into believing that the goods it offers to the public are those of the Appellee thereby leading to public deception and the defrauding of the legitimate trademark and business of the Appellee;
9. Under Sections 168.1 and 168.2 of the Intellectual Property Code of the Philippines ("IP Code"), a person who has identified in the mind of the public the goods he manufactures or deals in, his business or services from those of others, whether or not a registered mark is employed, has a property right in the goodwill of the said goods, business or services so identified, which will be protected in the same manner as other property rights; any person who employs deception or any other means contrary to good faith by which lie passes off the goods manufactured by him or in which he deals or his business, or services for those of the one having established such goodwill, or who commits any acts calculated to produce such result, is guilty of unfair competition, and shall be subject to an action therefor;
10. Because of the Appellant's unauthorized use of PAPERONE, the Appellee is entitled to recover profits actually made by the Appellant as a result of unfair competition or damages equivalent to a reasonable percentage of the Appellant's gross sales;
11. The Appellant's unauthorized use of a registered mark makes it liable under Sections 155 and 156 of the IP Code and that the Appellee is entitled to recover actual damages and to an injunction directing the Appellant to cease and desist from committing any act of infringement;
12. Despite the Appellee's demand In writing that the Appellant cease and desist from the illegal and unauthorized use of PAPER ONE, the Appellant failed and refused and continued to fail and refuse to comply thereby compelling the Appellee to file the instant case;
13. As a result of the Appellant's unjust and illegal acts, the Appellee incurred actual damages in the amount of Php 300,000.00;
14. The Appellant, in blatantly violating the Appellee's trademark rights and stubbornly refusing to heed the latter's repeated demands to cease and desist from doing so, unfairly competes With the Appellee's legitimate business and willfully causes loss or injury to the Appellee; such deliberately oppressive, unjust and injurious act is contrary to law, moral and public policy, for which the Appellant must be liable for moral damages in the amount of Php 3000,000.00,
15. The Appellant's willful violation of the Appellee's tights makes it liable for administrative penalties under Section 1, Rule 12 of the Rules and Regulations on Administrative Complaints for Violation of Laws Involving Intellectual Property Rights;
16. As a result of the Appellant's unauthorized use of PAPERONE for its corporate name, despite repeated demands to cease and desist from doing so, the Appellee was constrained to engage the set-vicees of counsel to prosecute die instant case and the Appellant should be held answerable to the payment of attorney's fees in the sum of Php300,000.00 plus litigation costs and expenses; and

17. By way of example and correction for the public good, and to prevent further incidents or blatant violations of intellectual property rights, the Appellant should be made to pay the Appellee exemplary damages in the sum of Php 300,000.00.

The Appellee submitted the following evidence:

1. The undated Affidavit-Testimony of Lim Wie Han;<sup>3</sup>
2. Certification and record of appointment of Lim Wie Han;<sup>4</sup>
3. Trademarks Report by Allen & Gledhill;<sup>5</sup>
4. Certificates of Registration (foreign) for PAPERONE;<sup>6</sup>
5. Cert. of Reg. No. 4-1999-01957 for PAPERONE;<sup>7</sup>
6. E-mail from Joan Teo to JND International Corporation dated 05 April 2001;<sup>8</sup>
7. Purchase orders/invoices/letters/packing lists-<sup>9</sup>
8. Philippines National Bookstore Promotion;<sup>10</sup>
9. Philippines Symposium Cost Structure;<sup>11</sup>
10. Amended Articles of Incorporation and Information Sheets of Nation Paper Products and Fruiting Corporation;<sup>12</sup>
11. Written cross-interrogatories on Mr. Lim Wie Han;<sup>13</sup>
12. Affidavit of Montini T. Felicilda (including annexes), executed on 17 February 2006;<sup>14</sup>
13. Income tax returns of the Appellant for 2003 to 2005;<sup>15</sup>
14. Certification letters of Susan B. Lee to the Board of Directors of the Appellant;<sup>16</sup>
15. Financial Statements and Balance Sheets of the Appellant;<sup>17</sup>
16. Letters of Susan Lee to the SEC;<sup>18</sup>
17. Appellant's schedule of taxes and licenses;<sup>19</sup> and
18. Affidavit of Henry J. King (including annexes) executed on 10 January 2006.<sup>20</sup>

The Appellant filed its "ANSWER" on 17 August 2004 alleging the following:

1. It had no obligation to secure the prior consent of and authority from the Appellee to adopt and use a corporate name; it would not have been allowed to adopt its corporate name by the SEC and/or the Department of Trade and Industry ("DTI") if the Appellee has a prior right to the corporate name;
2. The public could not have possibly been deceived into believing that any relation or sponsorship existed between the parties considering that its products were promoted and actually widely sold 111 the Philippines' market long before the Appellee could chain any business transactions in this country;
3. It is not aware of the existence and has no public knowledge of the Appellee, a foreign corporation which is not doing business in the Philippines;
4. It is not aware of the registration of PAPERONE as there has never been any trademark of PAPERONE registered with the Bureau of Patents, Trademark and Technology Transfer of the DTI;
5. It is a corporation duly registered with the SEC having been organized and existing since 30 March 2001 with SEC Registration No. A200104788 and that its business name has been duly registered with the DTI as per Certificate of Business Name No. 00068456;
6. It is engaged in the business of manufacturing table napkins, notebooks and intermediate and collegiate writing pads but does not use its corporate name PAPERONE for any of its products;
7. PAPERONE has not been used on any product similar with the Appellant either in the Philippines or elsewhere and it was the

Appellant who had extensively marketed and promoted its products in die Philippines to the exclusion of the Appellee's alleged products;

8. The Appellee has not registered PAPERONE in the country of origin;
9. The Appellant has not infringed on the Appellee's alleged mark since the Appellee has not used it in the Philippines; the Appellant is engaged in paper conversion and this does not deprive it of the right to register its corporation as PAPERONE as it does not belong to the same classification or similar kinds of goods of the Appellee;
10. When a trademark or trade name is used by a party for a product in which die other party does not deal, die use of the same mark on the latter's product cannot be validly objected to;
11. Nothing in the goods of the Appellee show that the mark is used as a corporate name as to cause deception or confusion to a discerning public and PAPERONE was apparently registered without having fulfilled the requirement of being internationally known or well-known;
12. The fact that the Appellant is engaged 111 the manufacture of paper products (table napkins, notebooks, and writing pads) will not deprived it of die right to use its corporate name since its products do not bear the mark claimed by the Appellee; and
13. As a counterclaim, the Appellee must be made to pay the Appellant exemplary damages in the amount of Php500,00.00 and attorney's fees in the amount of Php500,000.00 plus costs of litigation and attendant expenses.

The Appellant's evidence consists of the following:

1. Affidavit of Generosa R. Jacinto, executed on 25 October 2006;<sup>21</sup>
2. Statement of accounts, charge slips, bills and checks;<sup>22</sup>
3. The Appellant's Certificate of Incorporation and By-Laws, dated 30 March 2001;<sup>23</sup>
4. The Appellant's Certificate of Business Name Registration dated 31 March 2003;<sup>24</sup> and
5. Sample products of die Appellant.<sup>25</sup>

After the appropriate proceedings, the Director issued on 19 December 2008 a decision finding the Appellant liable for unfair competition and ordering die Appellant to cease and desist from using Paper One or Paperone and to pay the Appellee Php 300,000.00 as temperate damages, Php 200,000.00 as exemplary damages and Php 100,000.00 as attorney's fees. According to the Director, the Appellee is the prior user of PAPERONE which it has consistently used since 1999 and which has become the symbol of the goodwill of its paper business. She ruled that die Appellant's use of PAPERONE in its corporate name is to benefit from the goodwill already established by the Appellee. The Director did not find the Appellant liable for trademark infringement because, according to her, the registration of PAPERONE was issued only in 2003.

Dissatisfied, the Appellant filed an "APPEAL MEMORANDUM" on 25 February 2009 alleging that die evidence of die Appellee failed to support the claim of unfair competition and that its corporate name bears an earlier date of incorporation 111 March 2001 while the Appellee's mark was registered only in 2003. The Appellant asserts that PAPERONE is not a well-known mark and that die Appellee failed to prove any well-established reputation or goodwill previous to the establishment of the Appellant's business. The Appellant asserts that confusion or deception is highly improbable since it uses PAPERONE, INC. as its corporate name and never as a trademark or brand name. The Appellant chains that its products differ from the Appellee's raw paper products. The Appellant maintains that the Appellee is not entitled to temperate damages as there is no showing that the Appellee suffered pecuniary loss and that die Appellee instituted this case simply to eliminate perceived competition in the future and, hence,

the Appellee should pay the Appellant exemplary damages, attorney's fees and costs of litigation and attendant expenses.

The Appellee filed on 13 May 2009 its "COMMENT (On Appellant's Appeal Memorandum)" claiming that it has adduced substantial evidence that established the Appellant's acts constituting unfair competition. The Appellee contends that the Appellant is in bad faith when it registered its corporate name with the SEC because it knew that the Appellee is using PAPERONE for paper products. According to the Appellee, it has established priority of adoption and use of PAPERONE and has filed a trademark application thereof on 22 March 1999 which is earlier than the 2001 date of incorporation of the Appellant. The Appellee maintains that there is outright deception in the Appellant's act of adopting PAPERONE considering that the Appellant and the Appellee are both involved in the paper product business and that the Appellant's goods are related if not identical with the Appellee's goods. The Appellee posits that it is entitled to the award of actual damages, temperate damages and attorney's fees.

Pursuant to Office Order No. 197, Series of 2010, Mechanics for IPO-Mediation and Settlement Period, this case was referred to mediation. The parties were ordered to appear 11-1 the IPOPHL Mediation Office on 22 February 2011 to consider the possibility of settling the dispute.<sup>26</sup> On 21 July 2011, this Office received from the IPOPHL Arbitration and Mediation Center a copy of the "MEDIATOR'S REPORT" stating the unsuccessful mediation of this case.

This Office noted that the Appellee is not appealing the decision of the Director that the Appellant is not liable for trademark infringement. Hence, the only issues to be resolved in this appeal are:

1. Whether the Appellant is liable for unfair competition; and
2. Whether the Appellant is liable for the payment of damages and attorney's fees.

#### On the Issue of Unfair Competition

Sec. 168 of the IP Code provides that:

SEC. 168. Unfair Competition, Rights, Regulations and Remedies. - 168.1. A person who has identified in the mind of the public the goods he manufactures or deals in, his business or services from those of others, whether or not a registered mark is employed, has a property right in the goodwill of the said goods, business or services so identified, which will be protected in the same manner as other property rights.

168.2. Any person who shall employ deception or any other means contrary to good faith by which he shall pass off the goods manufactured by him or in which he deals, or his business, or services for those of the one having established such goodwill, or who shall commit any acts calculated to produce said result, shall be guilty of unfair competition, and shall be subject to an action therefore.

168.3. In particular, and without in any way limiting the scope of protection against unfair competition, the following shall be deemed guilty of unfair competition:

- (a) Any person, who is selling his goods and gives them the general appearance of goods of another manufacturer or dealer, either as to the goods themselves or in the wrapping of the packages in which they are contained, or the devices or words thereon, or in any other feature of their appearance, which would be likely to influence purchasers to believe that the goods offered are those of a manufacturer or dealer, other than the actual manufacturer or dealer, or who otherwise clothes the goods with such appearance as shall deceive the public and defraud another of his legitimate trade, or any subsequent vendor of such goods or any agent of any vendor engaged in selling such goods with a like purpose;
- b) Any person who by any artifice, or device, or who employs any other means calculated to induce the false belief that such person is offering the services of another who has identified such services in the mind of the public; or

(c) Any person who shall make any false statement in the course of trade or who shall commit any other act contrary to good faith of a nature calculated to discredit the goods, business or services of another.

168.4. The remedies provided by Sections 156, 157 and 161 shall apply *mutatis mutandis*.

In the case of *McDonalds Corp., et al., vs. L.C. Big Mak Burger*<sup>27</sup>, the Supreme Court cited the essential elements of an action for unfair competition:

The essential elements of an action for unfair competition are (1) confusing similarity in the general appearance of the goods, and (2) intent to deceive the public and defraud a competitor. The confusing similarity may or may not result from similarity in the marks, but may result from other external factors in the packaging or presentation of the goods. The intent to deceive and defraud may be inferred from the similarity of the appearance of the goods as offered for sale to the public. Actual fraudulent intent need not be shown.

In this case, the Appellee has proven that it owns the mark PAPERONE. The Appellee submitted copies of the certificates of registration for PAPERONE issued in its favor here in the Philippines and in other countries, and which were issued prior to the Appellant's adoption of this mark as part of the Appellant's corporate name. The Appellee submitted copies of its trademark registrations in Benelux, Canada, the European Union, Estonia, France, Germany, Indonesia, Italy, Japan, Latvia, Morocco, New Zealand, Norway, Russia, South Korea, Taiwan and the United Kingdom.<sup>28</sup>

The Appellee maintains that the Appellant has knowledge of its ownership and use of PAPERONE. It adduced the affidavit of Henry J. King<sup>29</sup>, an account executive of JND International Corporation ("JND"), a marketing arm of the Appellee, which showed that a certain Nation Paper Products & Printing Corp. ("NAPPCO") negotiated with the Appellee sometime in 2000 to become the exclusive distributor of the Appellee's products. The Appellee maintains that NAPPCO is the same corporation as the Appellant and that NAPPCO and the Appellant have interlocking directors and officers. As pointed out by the Appellee:

36. In the instant case, the knowledge by Appellant of the prior use of PAPERONE by Appellee, i.e., prior to Appellant's securing of the SEC approval for its PAPERONE, INC. corporate name in 2001, is amply proven by the following:

- a. One of the customers or buyers of paper products of Appellee is the entity NAPPCO (or "Nation Paper Products & Printing Corporation"), as evidenced by various debit notes, orders, bills of lading, invoices, shipment advises and packing lists, between Complainant and NAPPCO, with dates from early 1999, or before Respondent came into corporate being in March 2001, to 2002.
- b. On June 19, 2000, the Senior Vice President of NAPPCO, Mr. Jimmy Sy, wrote Appellee, specifically, Mr. Kelvin H. W. Tan, the Regional Sales Manager of Appellee, introducing NAPPCO as a paper trading company of over 40 years, and stating the proposal to Appellee that NAPPCO "x x x will be happy to become your exclusive distributor of 'PaperOne' Multi-Purpose Copy Paper. x x x", the goal being " x x x to popularize 'PaperOne' by hiring" x x x one full time sales person to introduce it to big users such as the banks, multinational companies and government agencies" and at the same time, to "x x x target the individual end users through close coordination with bookstores, computer schools and computer distributors."
- c. Earlier, NAPPCO had already communicated with JND International Corporation (or "JND"), which is one of the marketing and promotion agents of Appellee for its PAPERONE paper products, expressing interest to work with JND and Appellee to sell

PAPERONE cut size in the market, as sworn to by witness Henry J. Kung, account executive of JND.

- d. To corroborate this, Mr. King submitted electronic mail letters dated May 6, 1999, May 12, 1999 and December 9, 1999, where he recorded and reported to Appellee the offer of NAPPCO made to him regarding NAPPCO's interest to sell PAPERONE products.

37. So that there is no denying the tenor and extent of this admission, the contents of the letter are again quoted below:

April Fine Paper Trading Pte. Ltd.  
1311, Floor Bukit Crescent  
3/floor Kaki Bukit  
Techark 1, Singapore 416244

Dear Mr. Tan

We're a paper trading company with history of over 40 years. One of our main product line is cut size paper for office and school use....

We'll be happy to become your exclusive distributor of "Paper One" Multi-Purpose Copy Paper. In fact we have prepared for this and submitted some samples to our major customers. The immediate response is quite favorable. In order to popularize "Paper One", we intend to hire ...

Initially, we'd like to place a trial order of 60 to 100 NIT at a promotional price to test the market. We're very confident that with your support, Paper One" will become synonym for high quality paper.

...

Very Truly Yours,

Sgd. Jimmy Sy  
Senior Vice President.

38. The tenor of this letter is unmistakable: Jimmy Sy already knew at that time, or before 2001, that it is Appellee which owns the PAPERONE name for paper products, as in fact he even asked Appellee as such owner, and in behalf of NAPPCO, to allow NAPPCO to be the exclusive distributor of Appellee's PAPERONE products.

39. This knowledge of Jimmy Sy of the prior use and ownership of PAPERONE by Appellee, is also the prior knowledge of Appellant, not only because he is also a Director and Executive Vice President of Appellant, but also because Appellant is nothing more but the same corporation as NAPPCO given the fact that Appellant and NAPPCO have interlocking directors and officers, as shown in their respective articles of incorporation.

40. Although the incorporation papers of Appellant indicate the name Sy Siong Hun as the Director and Executive Vice President, this is nothing but the Chinese name of jimmy Sy, and records show that thus fact was never contested, much less refuted, by Appellant.<sup>30</sup>

Unfair competition concerns the passing-off or attempting to pass-off the public the goods or business of one person as and for the goods or business of another. The concept is to give protection to a person who has earned goodwill on his goods, business or services. Unfair competition is a question of fact and the determination of the existence thereof rests on the issue of whether or not, as a matter of fact, a defendant is, by conduct, passing off defendant's goods

as plaintiff's goods or defendant's business as plaintiff's business. The universal test is whether the public is likely to be deceived. In unfair competition, fraudulent intent is essential.<sup>30</sup>

In this instance, the Appellant knew PAPERONE as owned and used by the Appellee, yet it even registered this mark as part of its corporate name. This betrays the good faith of die Appellant in registering its corporate name. To allow the Appellant to continue using PAPERONE would only cause confusion and deception to the purchasing public. As correctly observed by the Director:

Respondent's use of Paper One or Paperone as its corporate name and its continued business or manufacturing paper products similar to Complainant's business and products directly conflicts with the rights of the Complainant because it creates confusion not just of goods that both parties offer to the public but confusion of business as well. Despite Respondent's denial of the similarity of products involved, its glaring similarity cannot be overlooked. Both Complainant APRIL [Appellee] and Respondent's main business product is paper, both offer papers for sale to the public. Given this similarity, confusion is created and co-existence of both businesses is unmistakably an act of unfair competition. Complainant first used the right to use Paperone and the subsequent use by Respondent of Paper One or Paperone to form part of its corporate name without tile consent or authority from Complainant APRIL (Appellant) is unjustified.<sup>32</sup>

In addition, the Appellant failed to explain why it is using PAPERONE on products that are similar to the products of the Appellee. To use a mark that has been previously appropriated by another, for use on one's business, without any explanation is something mind-boggling. 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 Appellee had to come up with a mark so closely similar to another's mark if there was no intent to take advantage of the goodwill generated by the other mark.<sup>33</sup>

The evidence shows the intention of the Appellant to pass off its products as those of the Appellee and to ride on the Appellee's goodwill. The Appellant is, therefore, liable for unfair competition.

By committing acts that constitute unfair competition, the Appellant is liable to the payment of damages to the Appellee.<sup>34</sup> A scrutiny of the evidence adduced by the Appellee, however, showed that while it presented the income statement or the gross sales of the Appellant for the years 2002 to 2005, this does not clearly indicate that the sales or profit derived by the Appellant all arose from the sale of PAPERONE products. The Director was, thus, correct in ruling that the Appellee failed to present sufficient basis to measure actual damages and instead ordered the Appellant to pay the Appellee temperate damages in the amount of Php300, 000.00.

Temperate damages are awarded where from the nature of the case, definite proof of pecuniary loss cannot be offered although there has been such loss. For instance, injury to ones commercial credit or to the goodwill of a business firm is often hard to show in terms of money.<sup>35</sup> The award of temperate damages is proper in view of the established goodwill of the Appellee on PAPERONE.

This Office also finds that by way of example or correction for die public good, with the objective of enhancing the protection of intellectual property and preventing similar acts of unfair competition, the Appellant should pay the Appellee exemplary damages in the amount of P200, 000.00. Exemplary damages are imposed not to enrich one party or impoverish another but to serve as a deterrent against or as a negative incentive to curb socially deleterious actions.<sup>36</sup>



Regarding attorney's fees, Article 2208 of the New Civil Code provides that attorney's fees may be recovered when exemplary damages are awarded or where the court deems it just and equitable.<sup>37</sup> It is well settled that in the recovery of attorney's fees, whether as a main action or as an incident of another action, the determination of the reasonableness is within the prerogative of the courts." Moreover, in the case of *Jose Abrogar, et al vs. Intermediate Appellate Court, et al.*,<sup>38</sup> it was held that the exercise of judicial discretion in the award of attorney's fees demands factual, legal and equitable justification.

In this case, this Office finds it just and equitable to award attorney's fees. The Appellee was constrained to engage the services of counsel and incur attorney's fees and expenses of litigation. The Appellee presented evidence" which showed that as of 2005, it has already paid its counsel a partial payment of Php 217,000.30. Accordingly, this Office finds that the Appellee can recover the amount of three hundred thousand pesos (P300,000.00) which is the amount the Appellee stated in its complaint.

Wherefore, premises considered, the appeal is hereby DISMISSED. The decision of the Director is affirmed with the modification on the amount of attorney's fees. The Appellant is hereby ordered to pay the Appellee Php 300,000.00 as attorney's fees. Let a copy of this Decision be furnished the Director of Bureau of Legal Affairs and the library of the Documentation, Information and Technology Transfer Bureau for information, guidance, and records purposes.

SO ORDERED

November 10, 2011, Taguig City

RICARDO R. BLANCAFLOR  
Director General

#### FOOTNOTES:

1 Cardboard, printing paper, writing and drawing paper, typewriting paper, blue print paper, white paper board, postcard paper, tissue paper, copying tissue paper, paper for facsimile use, letter paper, tablets pad, loose leaf paper, notebook, sketchbook, exercise book, writing pad, carbonless copying paper-, post-it pad, paper file, stickers, envelopes, account book, ruled paper, pocket book, memo paper; wrapping and packaging paper and materials.

2 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. This 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.

3 Exhibits ".AAA", "A-AA-1" to "AAA-4"

4 Exhibits "A", "A-1" and "AA".

5 Exhibits "B" to "B-11" and "BB".

6 Exhibits "C" to "C-32".

7 Exhibits "D" and "DD".

8 Exhibit "E".

9 Exhibits "E-1" to "E-9", "G", "G-1" to "G-74", "GG", "L", "M", "N" and "O", inclusive of submarkings.

10 Exhibits "F", "F-2" to "F-6".

11 Exhibits "F-1" and "F-7".

12 Exhibits "H", "H-A" to "H-H", "H-1" to "H-1-D", "H-2" to "H-2-G", "H-3" to "H-3-F", "H-4" to "H-4-F", "I", "I-A" to "I-H", and "II".

13 Exhibits "J" and "K", inclusive of sub-markings.

14 Exhibit "P", inclusive of sub-markings.

15 Exhibits "Q", "R", "R-1", "S" and "S-1".

16 Exhibits "Q-1", "R-2" and "S-3".

17 Exhibits "Q-2" to "Q-6", "Q-8" to "Q-9", "R-4" to "R-10", "S-2", "S-5" to Exhibits "S-8", "S-10" to "S-12".

18 Exhibits "R-3", and "S-4".

19 Exhibits "Q-7", "R-11" and "S-9".

20 Exhibit "AA", inclusive of sub-markings.

21 Exhibit "1".

22 Exhibits "2" to "10", inclusive of sub-markings.

23 Exhibits "11" and "11-A".

24 Exhibit "12".

25 Exhibits "13" to "24", inclusive of sub-markings.

26 Order dated 01 February 2011.

27 G.R. No. 143993, 18 August 2004.  
21 See COMMENT (On Appellant's Appeal Memorandum), dated 12 May 2009, page 12.  
29 Exhibit "AA", inclusive of submarkings  
30 COMMENT (On Appellant's Appeal Memorandum), dated 12 May 2009, pp. 14-17.  
31 See *Del Monte Corporation vs. Court of Appeals*, G. R. No. L-78325, 25 January 1990.  
32 See Decision No. 2008-06, dated 19 December 2008, pp. 18-19.  
33 *American Wire & Cable Company vs. Director of Patents*, G. R. No. L-26557, 18 February 1970.  
34 Sec.156. Actions, and Damages and Injunction for Infringement.- 156.1 The owner of a registered mark may recover damages from any person who infringes his rights, and the measure of the damages suffered shall be either the reasonable profit which the complaining party would have made, had a defendant not infringed his rights, or the profit which the defendant actually made out of the infringement, or in the event such measure of damages cannot be readily ascertained with reasonable certainty, then the court may award as damages a reasonable percentage based upon the amount of gross sales of the defendant or the value of the services in connection with which the mark or trade name was used in the infringement of the rights of the complaining party.  
168.4. The remedies provided by Sections 156, 157 and 161 shall apply, *mutatis mutandis*  
35 See *Araneta vs. Bank of America*, G. R. No. L-25414, 30 July 1971.  
36 See G. R. No. 118325, 29 January 1997.  
37 Paragraph Nos. 1 and 11.  
38 *Compania Maritima, Inc..et al vs. Court. Of App6ah and Exequiel S. Consulta*, G.R. No. 128452, 16 November 1999.  
39 G.R. No. L-67970, 15 January 1988.  
40 See Exhibit P.