

SALVATORE FERRAGAMO S.P.A.
Opposer,

INTER PARTES CASE NO. 3140

- versus -

NOTICE OF OPPOSITION

NEW YORK GARMENTS MANU-
FACTURING EXPORT CO., INC.,
Respondent-Applicant.

x-----x

- and -

SALVATORE FERRAGAMO S.P.A.
Petitioner,

INTER PARTES CASE NO. 3088

- versus -

PETITION FOR CANCELLATION

NEW YORK GARMENTS MANU-
FACTURING EXPORT CO., INC.,
Respondent-Registrant.

x-----x

DECISION

This is a consolidated decision arising from two (2) petitions, namely:

- (1) A Notice of Opposition filed against an application in the Principal Register under Serial No. 55670 for the mark "FERRAGAMO & DEVICE" used for T-shirts, polos, sandos, briefs, pants, jackets and slacks and shorts (Inter Partes Case No. 3140); and
- (2) A Petition for the Cancellation of Certificate of Registration No. 7042 for the trademark "FERRAGAMO & DEVICE" for clothing in Class 25 in the Supplemental Register issued on September 20, 1985.

Opposer-Petitioner Salvatore Ferragamo S.P.A. is a foreign corporation organized and existing under the laws of Italy, with address at 2, Via dei Tornabuoni, Florence, Italy, and represented in the Philippines by Messrs. Siguion Reyna, Montecillo & Ongsiako with business address at 5th Floor, A. Soriano Bldg., Ayala Avenue, Makati, Metro Manila; while Respondent-Applicant New York Garments Manufacturing & Export Co., Inc, is a corporation duly organized and existing under the laws of the Republic of the Philippines with principal office at 252 Int. A. Carlos Palanca, Manila, Philippines.

For failure to file an Answer, and upon Opposer-Petitioner's motion, Respondent-Applicant was declared in default. Accordingly, Opposer-Petitioner was allowed to present its evidence ex-parte (Order No. 89-100.).

Opposer-Petitioner alleges that the Respondent-Applicant's trademark application should be denied and the certificate of registration cancelled under Section 8 of Republic Act 166, as amended, and Article 6bis of the Paris Convention, for the following reasons:

- (a) That the Opposer-Petitioner is the owner of Italian Certificates of Registration No. 246,259 issued July 20, 1970 for the trademark FERRAGAMO in International Class

25 and No, 286,799 issued on December 31, 1974 for the trademark DOUBLE F DEVICE in Classes 14, 18 and 25. Opposer-Petitioner is also the owner of International Registration No. 397,659 dated March 23, 1973 for the word mark FERRAGAMO and No. 412,838 dated December 31, 1974 for the DOUBLE F DEVICE (Exhs. "E", "F", "G" and "H").

- (b) That the Respondent-Applicant's trademark FERRAGAMO & DEVICE, when applied to or used in connection with the goods of the Respondent-Applicant, causes or shall cause confusion and mistake and deceives or shall deceive purchasers as to the source and origin of the goods and enable or shall enable unscrupulous dealers to pass off the goods of New York Garments Manufacturing & Export Co., Inc. for those of the Opposer-Petitioner herein to the damage of both the Opposer Petitioner and the buying public (Exh. "L").
- (c) That the trademark FERRAGAMO is, and ever since its adoption has been continuously applied to products, packages and containers of the Opposer-Petitioner and has come to be and now is popularly known throughout Italy, in most parts of Europe, the United States and Asia, and other parts of the world (Exhs. "J" to "J-6" and "K").

The failure of Respondent-Applicant to answer the Opposition and the Petition for Cancellation of Certificate of Registration No. 7042 despite sufficient notice and material time given shows its lack of interest to proceed with its application to support its claim of ownership on trademark FERRAGAMO or refute the claim of the Opposer-Petitioner.

WHEREFORE, the Opposition is given due course. Application Serial No. 55670 filed by New York Garments Manufacturing & Export Co., Inc. is DENIED. Certificate of Registration No. 7042 under the Supplemental Register is CANCELLED.

Let the records of these cases be forwarded to the Application, Issuance & Publication Division for proper action in accordance with this Decision.

SO ORDERED.

Makati, Metro Manila, July 19, 1989.

IGNACIO S. SAPALO
Director