

SAO PAULO ALPARAGATAS, S.A.,
Opposer,

INTER PARTES CASE NO. 3099
Opposition to:

- versus -

Trademark: TIGA & T (logo)

S.R. INDUSTRIES,
Respondent-Applicant.
x-----x

DECISION NO. 89-89 (TM)

DECISION

On June 21, 1968, SAO PAULO ALPARAGATAS, S.A. filed an unverified Notice of Opposition against the registration of the trademark "TIGA & T Logo" used on sporting articles in Class 28, applied for by S.R. INDUSTRIES on April 6, 1982 under Application Serial No. 47895 published on page 248, Volume I, No. 3 of the BPTTT Official Gazette dated and released for circulation on May 23, 1988.

Opposer is a foreign company organized and existing under the laws of Brazil with offices at Rua Urussui, 300, C.P. 8001 CEP 04542, Sao Paulo, Brazil; while Respondent-Applicant is also a foreign corporation of France with business address at 6, Rue Sadi Carnot 62400 Bethune, France.

The grounds alleged in the verified Notice of Opposition submitted on September 19, 1988 are:

1. The registration of the trademark TIGA & T Logo in the name of the Respondent-Applicant will violate and go against the provision of Section 4 of Republic Act No. 166, as amended, because said mark is identical to the registered trademark T-LOGO owned and unabandoned by the Opposer, as to be likely, when applied to or used in connection with the goods of the Respondent-Applicant, to cause confusion or mistake or deceive purchasers thereof;
2. Respondent-Applicant has no bona fide use in Philippine commerce of the mark TIGA & T (logo) prior to the instant application for the registration thereof in the Principal Register;
3. The registration of the trademark TIGA & T (logo) in the name of Respondent-Applicant will cause grave and irreparable injury and damage to the Opposer within the meaning of Section 8 of Republic Act No. 166, as amended.

In its Answer seasonably filed, Respondent-Applicant denied the material allegations stated therein and made the following Special and Affirmative defenses:

4. The trademark 'TIGA & T (Logo)' applied for registration by the Respondent-Applicant in this jurisdiction has long enjoyed trademark protection in its Home Country, France, as well as in other foreign countries;
5. The trademark 'TIGA & T (Logo)' as previously registered in France and other countries worldwide in favor of Respondent-Applicant has been in continuous use since the time of its adoption, hence, the same has gained tremendous goodwill for

Respondent-Applicant and has become distinctive of the goods it manufactures and distributes;

6. xxx the fact that the trademark at issue has long been registered and enjoys tremendous consumer patronage, said mark cannot be imputed to be productive of confusion, mistake and deception to the public as to the source of Respondent-Applicant's goods;
7. The marks alleged to be confusingly similar are not even remotely akin in terms of the label representation of each as used in actual commerce. Herein Respondent-Applicant's mark bears not only the stylized 'T' but also the word 'TIGA' drawn immediately beneath the said letter. On the other hand, Opposer's mark consists of only the 'T' logo and which presumably stands for 'TOPPER', a different word altogether, possessed of a distinct and entirely different dictionary meaning."

After receipt of the Answer, the Pre-Trial Conference was scheduled to December 20, 1988 but was reset for several times. The pre-trial was terminated on June 26, 1989 and hearing on the merits was immediately set.

At the hearing of October 16, 1989 Counsel for Respondent-Applicant manifested, in open court, that it already received instructions from its client abroad to abandon subject trademark application.

On October 20, 1989, Respondent, through Counsel filed a written Manifestation formally informing this Bureau that it "has decided to voluntarily abandon its trademark application." (See attached letter dated Sept. 26, 1989).

WHEREFORE, this Opposition is DISMISSED for having become moot. As manifested, Application Serial No. 47895 is hereby declared VOLUNTARILY ABANDONED.

Let the records of the case be forwarded to the Application, Issuance and Publication Division for appropriate action in accordance with this Decision.

SO ORDERED.

Makati, Metro Manila, October 30, 1989.

IGNACIO S. SAPALO
Director