

SCOTCH WHISKY ASSOCIATION  
OF UNITED KINGDOM,  
Opposer,

INTER PARTIES CASE NO. 3228

OPPOSITION TO:

- versus -

Application Serial No.54645  
Filed : September 12, 1984  
Trademark : GRAND SALUTE X.O.  
WHISKY  
Applicant : Consolidated Distillers of  
Far East, Inc.  
Used on : Whisky

CONSOLIDATED DISTILLERS  
OF FAR EAST, INC.,  
Respondent-Applicant.  
x-----x

DECISION NO. 89-59 (TM)  
August 14, 1989

### DECISION

Scotch Whisky Association of United Kingdom seasonably filed a Notice of Opposition against the registration of the trademark "GRAND SALUTE X.O. WHISKY" for whisky applied for on September 12, 1984 by Consolidated Distillers of Far East, Inc. under Application Serial No. 54645 published on Page 19, Volume I, No. 6 of the BPTTT Official Gazette dated August 19, 1988 but was released for circulation on August 22, 1988.

Opposer is a trade association of Scotch Whisky distillers and blenders organized and existing under the laws of the United Kingdom, with address at 20 Atholl Crescent, Edinburgh EH3 8HF, Scotland, United Kingdom while Respondent-Applicant is a domestic corporation organized and existing under Philippine laws, with business address located at No. 10 Taft Street, Greenhills, San Juan, Metro Manila, Philippines.

The grounds alleged in the Notice of Opposition:

"1. Respondent-applicant has specifically agreed not to use the said mark and has therefore abandoned the same. The respondent-applicant has not used the mark for 3 years and has no intention of doing so in the future.

2. Respondent-applicant's mark as used in commerce constitutes a direct or indirect use of a false indication of the source of its products which is an act contrary to honest practices in industrial or commercial matters or an act of unfair competition which the member countries of the Paris Union, including the Philippines, undertake to assure to nationals of the other countries of the Union appropriate legal remedies to repress effectively in accordance with the provisions of Articles 10, 10bis and 10ter of the said Paris Convention. x x x"

In its Answer, Respondent-Applicant alleged that:

- a. This opposition was filed out of time or beyond the period fixed in Section 8 of R.A. No. 166 (Trademark Law);
- b. Opposer failed to allege its capacity to sue;

- c. Opposer failed to allege that it has a registered right, either in this country or in the United Kingdom, of the trademark "GRAND SALUTE X.O. WHISKY";
- d. There is no Philippine law which gives any semblance of protection to opposer's nebulous and highly generalized claim as in the instant case;
- e. Opposer is not even doing business here in the Philippines.

Issues joined, the case was set for pre-trial conference and later heard on its merits.

On July 27, 1939, Opposer by counsel filed a Motion to withdraw herein the opposition on the ground that the parties have already amicably settled the case by Respondent-Applicant's withdrawal of its Application Serial No. 54645 as may be seen in its letter dated May 31, 1989 (Annex "A"). The first paragraph of said letter reads:

"Solely in avoidance of a protracted, vexatious and expensive litigation, our client, the Consolidated Distillers of Far East, Inc., has decided to withdraw as it hereby withdraws, its application for the registration of the trademark 'GRAND SALUTE X.O. WHISKY' for whisky, Serial No. 54645 filed on 12 September 1984." (Underscoring supplied)

which letter was signed by counsels with the conformity of Respondent-Applicant.

WHEREFORE, this opposition is DISMISSED for having become moot. Pursuant to subject letter, Application Serial No. 54645 for the mark "GRAND SALUTE X.O. WHISKY" is hereby declared voluntarily WITHDRAWN/ ABANDONED.

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

SO ORDERED.

IGNACIO S. SAPALO  
Director