



OFFICE OF THE DIRECTOR GENERAL

**JUICY COUTURE, INC., and L.C.
LICENSING, INC.,**

Appellants,

- versus -

ADRIATIC MANUFACTURING CORP.,
Appellee.

X-----X

Appeal No. 14-2012-0067
MNO No. 2010-120

Opposition To:
Application No. 4-2009-00847
Date Filed: 25 August 2009
Trademark: **JUICY LOVE**

DECISION

JUICY COUTURE, INC. and L.C. LICENSING, INC. ("Appellants") appeals Order No. 2010-54(D), dated 15 June 2010, and 2012-08(D), dated 17 October 2012, of the Director of the Bureau of Legal Affairs ("Director") dismissing the Appellant's opposition to Trademark Application No. 4-2009-00847 filed by ADRIATIC MANUFACTURING CORP. ("Appellee").

Records show that on 08 February 2010, the subject trademark application was published in the IPOP HL E-Gazette. On 09 March 2010, the Appellants, through counsel, filed a Motion for Extension of Time to File a Verified Opposition, praying that it be given an extension of thirty (30) days from 10 March 2010 within which to file its Verified Notice of Opposition. Such Motion was granted by the Bureau of Legal Affairs ("Bureau") in Order No. 2010-386, dated 22 March 2010, giving the Appellants until 09 April 2010 to file its Opposition. Thereafter, on 08 April 2010, the Appellants again filed a Second Motion for Extension, praying that a further extension of thirty (30) days be granted, or until 09 May 2010, to file the said Opposition. The same was again granted by the Bureau in Order No. 2010-472, dated 16 April 2010. Finally, on 05 May 2010, Appellants filed a Final Motion for Extension of Time to File a Verified Opposition, which was granted by the Bureau, giving Appellants until 08 June 2010 to file its Opposition.

On 08 June 2010, the Appellants filed a "Verified Opposition". However, they failed to pay the required filing fee. Citing Section 7.2 of Office Order No. 79, series of 2005, or the Amendments to the Regulations on *Inter Partes* Proceedings ("*Inter Partes* Rules"), the Director issued Order No. 2010-54(D), dismissing the appeal. According to the Director, Section 7.2 of the *Inter Partes* Rules expressly states that:

7.2. The prescribed fees under the IPO Fee Structure shall be paid upon the filing of the petition or opposition otherwise, the petition or opposition shall be considered as not filed.

On 24 June 2010, the Appellants filed a Motion for Reconsideration with the Bureau. It was only at this point that the Appellants remitted the amount equivalent to the filing fees, which it claimed to have inadvertently overlooked. In Resolution No. 2012-08(D), the Director denied the Appellant's Motion and maintained that Section 7.2 of the *Inter Partes* Rules is explicit as to the non-payment of the filing fees.

Dissatisfied, on 28 November 2012, the Appellants filed a Notice of Appeal before this Office, praying that the Order and Resolution of the Director be set aside and, in lieu thereof, an Order be issued reinstating the instant opposition. In its Appeal, the Appellant cited Rule 2, Section 8 (c) of Office Order No. 99, series of 2011, which states that the non-payment of filing fees may be cured by the Opposers within five (5) days from receipt of notice from the Bureau. Although the present case was filed under the previous *Inter Partes* Rules¹, the Appellant claims that the amendments under Office Order No. 99, series of 2011, should be applied retroactively to its benefit.

This Office notes that despite praying for multiple extensions of time to file its Verified Opposition, which were granted by the Bureau in all instances, the Appellants likewise failed to pay the filing fees at the time of its filing of the Opposition. The pronouncement of the Supreme Court is applicable in this case:

On the first issue, we cannot overemphasize the importance of paying the correct docket fees. Such fees are intended to take care of court expenses in the handling of cases in terms of cost of supplies, use of equipment, salaries and fringe benefits of personnel, etc., computed as to man-hours used in the handling of each case. The payment of said fees, therefore, cannot be made dependent on the result of the action taken, without entailing tremendous losses to the government and to the judiciary in particular.

Thus, the rule is that "upon the filing of the pleading or other application which initiates an action or proceeding, the fees prescribed therefor shall be paid in full."²

In fact, the Supreme Court has consistently upheld the importance of paying docket fees, ruling that the same is jurisdictional in nature, to wit:

Jurisdiction is defined as the authority to hear and determine a cause or the right to act in a case. In addition to being conferred by the Constitution and the law, the rule is settled that a court's jurisdiction over the subject matter is determined by the relevant allegations in the complaint, the law in effect when the action is filed, and the character of the relief sought irrespective of whether the plaintiff is entitled to all or some of the claims asserted. Consistent with Section 1, Rule 141 of the Revised Rules of Court which provides that the prescribed fees shall be paid in full "upon the filing of the pleading or other application which initiates an action or proceeding", the well-entrenched rule is to the effect that a court acquires jurisdiction over a case only upon the payment of the prescribed filing and docket fees.³

¹ Office Order No. 79, series of 2005.

² *Manuel Serrano vs. Eugenio Delica*, G.R. No. 136325, 29 July 2005.

³ *Home Guaranty Corporation vs. R-II Builders Inc.*, G.R. No. 192649, 09 March 2011.

Applying the foregoing to the present case, the *Inter Partes* Rules are clear and explicit in requiring the payment of filing fees. Otherwise, the Opposition shall be deemed as not filed. There is therefore no cogent reason to revisit the ruling of the Director dismissing the present case.

WHEREFORE, premises considered, the appeal is hereby **DISMISSED**. Let a copy of this Decision and the records of this case be furnished and returned to the Director of Bureau of Legal Affairs for appropriate action. Further, let also the Director of the Bureau of Trademarks and the library of the Documentation, Information and Technology Transfer Bureau be furnished a copy of this Decision for information, guidance, and records purposes.

SO ORDERED.

SEP 02 2018 Taguig City.


RICARDO R. BLANCAFLOR
Director General 