



## OFFICE OF THE DIRECTOR GENERAL

**MINXU XU,**  
Respondent-Appellant,

**-versus-**

**JENNIFER ANG,**  
Opposer-Appellee.

X-----X

**APPEAL NO. 14-2012-0053**  
**IPC No. 14-2011-00072**  
**Opposition to:**

**Application No. 4-2010-001861**  
**Date Filed: 18 February 2010**  
**Trademark: VERDON SERIES**

### ORDER

The Appellant filed on 11 September 2012 an "APPEAL MEMORANDUM" seeking the reversal of Decision No. 2012-101 dated 25 June 2012 issued by the Director of the Bureau of Legal Affairs ("Director") sustaining the Appellee's opposition to the Trademark Application No. 4-2010-001861.

The appeal must be dismissed outright.

Section 2 of the Uniform Rules on Appeal, as amended<sup>1</sup>, provides in part that:

Section 2. Appeal to the Director General.- The decisions or final orders of the Bureau Director shall become final and executory thirty (30) days after receipt of a copy thereof by the parties unless, within the same period, a motion for reconsideration is filed with the Bureau Director or an appeal to the Director General has been perfected; Provided, that only one (1) motion for reconsideration of the decision or order of the Bureau Director shall be allowed; and, in case the motion for reconsideration is denied, the appellant or appellants has/have the balance of the period prescribed above within which to file the appeal. (emphasis supplied)

Records show that the Appellant received a copy of the appealed decision on 10 July 2012. Thus, pursuant to Sec. 2 of the Uniform Rules on Appeal, the Appellant had until 09 August 2012 to file an appeal to this Office.

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<sup>1</sup> Amendment per Office Order No. 12, series of 2009.

Sec. 5(b) of the IPO Uniform Rules on Appeal provides that:

Section 5. *Action on the Appeal Memorandum.*- x x x

b) The appeal shall be dismissed outright on any of the following grounds:

1. the appeal is filed out of time;
2. the subject of the appeal is an interlocutory order, or is not a decision or final order;
3. the appeal fee and other applicable fees are not paid within the reglementary period.

The APPEAL MEMORANDUM was, therefore, filed out of time and the decision of the Director has become final and executory. In *Sehwani, Incorporated and/ or Benita's Frites, Inc. vs. In-N-Out Burger, Inc.*<sup>2</sup> the Supreme Court affirmed the ruling of the Court of Appeals which sustained this Office's decision dismissing an appeal that was filed out of time, thus:

The court has invariably ruled that perfection of an appeal within the statutory or reglementary period is not only mandatory but also jurisdictional; failure to do so renders the questioned decision/final order final and executory, and deprives the appellate court of jurisdiction to alter the judgment or final order, much less to entertain the appeal. True, this rule had been relaxed but only in highly meritorious cases to prevent a grave injustice from being done. Such does not obtain in this case.

Wherefore, the instant appeal is hereby dismissed for the reason discussed above.

SO ORDERED.

**OCT 15 2012** Taguig City.

  
**RICARDO R. BLANCAFLOR**  
Director General

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<sup>2</sup> G.R. No. 171053, 15 October 2007.