



JOLLIBEE FOODS CORPORATION,  
Opposer,

-versus-

PRIFFOOD CORPORATION,  
Respondent-Applicant.

X-----X

} IPC No. 14-2012-00111  
} Opposition to:  
} Appln. Serial No. 4-2011-013041  
} Date Filed: 28 October 2011  
} TM: "JOLLY TWINS"  
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}  
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}

### NOTICE OF DECISION

**QUISUMBING TORRES**  
Counsel for the Opposer  
12<sup>th</sup> Floor, Net One Center  
26<sup>th</sup> Street corner 3<sup>rd</sup> Avenue  
Crescent Park West, Bonifacio Global City  
Taguig City

**PRIFFOOD CORPORATION**  
Respondent-Applicant  
Don S. Suico St., Riverside  
Canduman, Mandaue City, Cebu

#### GREETINGS:

Please be informed that Decision No. 2013 - 142 dated July 24, 2013 (copy enclosed) was promulgated in the above entitled case.

Taguig City, July 24, 2013.

For the Director:

  
**Atty. EDWIN DANILO A. DATING**  
Director III  
Bureau of Legal Affairs



**JOLLIBEE FOODS CORPORATION,**  
Opposer,

-versus-

**PRIFFOOD CORPORATION,**  
Respondent-Applicant.

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IPC No. 14-2012-00111

Opposition to Trademark  
Application No. 4-2011-013041  
Date Filed: 28 October 2011

Trademark: **JOLLY TWINS**  
Decision No. 2013- 142

### DECISION

Jollibee Foods Corporation<sup>1</sup> (Opposer) filed on 03 April 2012 an opposition to Application No. 4-2011-013041. The contested application, filed by Priffood Corporation<sup>2</sup> (Respondent-Applicant), covers the mark "JOLLY TWINS" for use on "*biscuits, caramel, wafer, extrusion, wheat, oats, rice, co-extrusion, flour, sugar, milk, wheat, oats, rice, corn, snacks*" under Class 30 of the International Classification of Goods<sup>3</sup>.

Opposer anchors its claims on the provisions of paragraphs (d), (e) and (f) of Section 123 of the Republic Act No. 8293, also known as the Intellectual Property Code of the Philippines ("IP Code"). It insists that its trademark is well-known based on the criteria set forth in Rule 102 of the Implementing Rules and Regulations on Trademarks, Service Marks, Tradenames and Marked or Stamped Containers. According to Opposer, the company now has seven hundred fifty two (752) restaurants in the Philippines since it first introduced its mark on 26 January 1978. Abroad, there exist (seventy nine) 79 Jollibee restaurants since it first branched out in Taiwan in 1986. With the extensive use and advertising of the mark, Opposer claims that a mere look or mention of "Jollibee" or "Jolly", the consuming public would immediately associate the terms with its products and services. Aside from the feature of in articles and blog sites all over the world to sustain its assertion that its mark is well-known, Opposer states that it has sixty nine (69) registrations and fifteen (15) pending applications in the Philippines and 182 registrations and 116 pending application abroad. Likewise, it contends that the Bureau has recognized the well-known status of Jollibee trademarks in the case of Jollibee Foods Corporation vs. Atlas Publishing Company Inc. (IPC No. 14-2006-00113).

<sup>1</sup> A corporation organized under the laws of the Philippines with address at 7<sup>th</sup> Floor, Jollibee Plaza Building, Emerald Avenue, Ortigas Center, Pasig City.

<sup>2</sup> With address at Don S. Suico St., Riverside Canduman, Mandaue, Cebu City.

<sup>3</sup> The Nice Classification is a classification of goods and services for the purpose of registering trademark and services marks, based on the multilateral treaty administered by the World Intellectual Property Organization. The treaty is called the Nice Agreement Concerning the International Classification of Goods and Services for the Purpose of the Registration of Marks concluded in 1957.

In support of its contentions, Opposer presented the following:

1. Decision of the IPO dated 25 February 2007 in Jollibee Foods Corporation vs. Atlas Publishing Company, Inc., IPC No. 14-2006-00113;
2. Original notarized affidavit of Atty. Gonzalo D.V. Go III;
3. Representative samples of Philippine registrations and application for the JOLLIBEE mark and other related JOLLIBEE and JOLLY TRADEMARKS;
4. Representative samples of food packaging and containers bearing the JOLLIBEE Trademarks;
5. Screenshots of Opposer's website, [www.jollibee.com.ph](http://www.jollibee.com.ph), featuring various Jollibee items and food products, Jollibee restaurant locations on the Philippines and overseas, and other relevant information about Opposer;
6. Representative sample of promotional materials and advertisements in television programs, the internet, well-known print publications, in-store promotions, and outdoor promotions for products and services bearing the Jollibee Trademarks;
7. Table showing the details of Opposer's applications and registrations for the Jollibee trademarks worldwide;
8. Representative samples of registrations and applications for the Jollibee Trademarks from different countries worldwide such as: Bahrain, Brazil, Canada, Hong Kong, India, Indonesia, Israel, Italy, Kuwait, Malaysia, Mexico, Oman, Saudi Arabia, Singapore, South Korea, Spain, United States of America and Vietnam;
9. Various articles and blogs from different parts of the world attesting to the renown and the well-known status of Opposer and its Jollibee trademark worldwide;
10. Opposer's 2011 Audited Consolidated Financial Statements; and,
11. Opposer's Annual Reports from 2002 to 2010.

Despite due notice, Respondent-Applicant did not file its Answer. As a result, a default order was issued and the case was submitted for decision.

Now, the issue to be resolved is whether the trademark application of Respondent-Applicant should be granted.

The records reveal that at the time Respondent-Applicant applied for registration of its mark "JOLLY TWINS", the Opposer has a valid and existing registration of its trademark "JOLLIBEE", which certificate was issued as early as 24 September 2005. The latter has several other registrations under its name including but not limited to: "JOLLIBEE LOGO AND DEVICE", "JOLLY ZERTS", "JOLLY SHAKES", "JOLLY KRUNCHY TWIRL", "JOLLY CRISPY FRIES", "JOLLY CHEEZY FRIES", "JOLLY CRISPY FRIES, BESTFRIEND FRIES", "JOLLY HOTDOG" and "JOLLY HOTDOG, SARAP ON-THE-MOVE" (hereafter collectively referred to as "Jollibee trademarks"). It is undisputed that the Jollibee trademarks were registered earlier than the filing of Respondent-Applicant's trademark application.

Be that as it may, the Bureau does not agree with Opposer's contention that the mark "JOLLY TWINS" is confusingly similar to the Jollibee trademark. While both parties use the word "JOLLY" in their marks, Respondent-Applicant succeeded in lending distinctiveness in its mark by placing the word "TWINS" thereafter. Visually and aurally, the subject marks are individualized by their second words that the term "JOLLY" pale into significance.

Also, the Opposer's goods and services can only be purchased and availed of in its restaurants and fast food chains while that of Respondent-Applicant in ordinary stores. Therefore, it is highly improbable that the consumers will be deceived, or at least confused, that "JOLLY TWINS" products are the same or are sourced from Opposer.

Consequent to the findings that there is no confusing similarity between "JOLLY TWINS" and the Opposer's trademarks, there is no reason to delve on the issue of whether "JOLLIBEE" and its other family of marks are well-known.

Finally, it is emphasized that the essence of trademark registration is to give protection to the owners of trademarks. The function of a trademark is to point out distinctly the origin or ownership of the goods to which it is affixed; to secure to him who has been instrumental in bringing into the market a superior article of merchandise, the fruit of his industry and skill; to assure the public that they are procuring the genuine article; to prevent fraud and imposition; and to protect the manufacturer against substitution and sale of an inferior and different article as his product.<sup>4</sup> It is found that Respondent-Applicant sufficiently met the requirements of the law.

**WHEREFORE**, premises considered, the instant opposition is hereby **DISMISSED**. Let the filewrapper of Trademark Application No. 4-2011-013041 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

**SO ORDERED.**

Taguig City, 24 July 2013.

  
**ATTY. NATHANIEL S. AREVALO**  
Director IV  
Bureau of Legal Affairs

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<sup>4</sup> Pribhdas J. Mirpuri vs. Court of Appeals, G.R. No. 114508, 19 November 1999.