



PHILIP MORRIS PRODUCTS S.A.,
Opposer,

-versus-

PT. PERUSAHAAN DAGANG DAN
INDUSTRI TRESNO,
Respondent-Applicant.

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} IPC No. 14-2009-00045
} Opposition to:
} Appln. Serial No. 4-2007-011946
} Date filed: 25 Oct. 2007
} TM: "COUNTRY INTERNATIONAL
} & DESIGN (IN COLOR)"

NOTICE OF DECISION

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GREETINGS:

Please be informed that Decision No. 2012 – 143 dated August 10, 2012 (copy enclosed) was promulgated in the above entitled case.

Taguig City, August 10, 2012.

For the Director:


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



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**PT. PERUSAHAAN DAGANG DAN
INDUSTRI TRESNO,**
Respondent-Applicant.

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Opposition to:
Appln. Serial No. 4-2007-011946
(Filing Date: 25 Oct. 2007)

**TM: COUNTRYINTERNATIONAL
& DESIGN (IN COLOR)**

Decision No. 2012- 143

DECISION

PHILIP MORRIS PRODUCTS S.A. ("Opposer")¹ filed on 06 February 2009 an Opposition to Trademark Application No. 4-2007-011946. The application, filed by PT. PERUSAHAAN DAGANG DAN INDUSTRI TRESNO ("Respondent-Applicant")², covers the mark "COUNTRY INTERNATIONAL & DESIGN (IN COLOR)" for use on *cigarettes, filter cigarettes, tobacco and tobacco products, Cigars, cigarette boxes, lighters for smokers, smoker's articles and matches* under Class 34 of the International Classification of goods³.

The Opposer alleges, among others, the following:

"a. The approval of Appl. Serial No. 4-2007-011946 is contrary to the following provisions of Republic Act 8293 or the Intellectual Property Code of the Philippines ('IPC'): Sections 123.1 (d), (e), (f) and 147.

"b. The approval of Appl. Serial No. 4-2007-011946 will cause grave and irreparable damage and injury to Opposer.

"c. The use and registration of the applied for mark by Respondent-Applicant will mislead the public as to the origin, nature, quality and characteristics of goods on which it is affixed.

"d. Respondent-Applicant's application for registration is tantamount to fraud as it seeks to register and obtain legal protection for an identical or confusingly similar mark that clearly infringes upon the established rights of the Opposer over its registered and internationally well-known trademarks.

"e. Opposer owns the rights to the well-known trade dress consisting of the Roof design. The Roof design is the single most distinctive component of the trade dress which is used to distinguish the Opposer's cigarette products from products of other companies. Respondent-Applicant's applied for mark constitutes a colorable imitation of the Roof Design trade dress.

"f. The registration of the trademark 'COUNTRY INTERNATIONAL & DESIGN (IN

¹ A corporation organized and existing under the laws of Switzerland with principal office at Quai Jearenaud 3, 2000 Neuchatel, Switzerland.

² A company organized and existing under the laws of Indonesia with address at JL. Raya Karanglo Singosari Malang, Indonesia.

³ 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.

COLOR)' in the name of Respondent-Applicant will violate proprietary rights and interests, business reputation and goodwill of the Opposer over its famous trade dress consisting of the Roof Design and will result in the dilution of the same as well as Opposer's other trademarks such as the 'MARLBORO & ROOF DESIGN', 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY' hence would be in violation of Sections 168.1.

"g. The registration of the applied for mark will enable the Respondent-Applicant to unfairly profit commercially from the goodwill, fame, and notoriety of Opposer's trademark.

"h. Respondent-Applicant's registration and use of the applied for mark in connection with goods under Class 34 will result in trademark dilution, or weaken the uniqueness and the distinguishing capacity of Opposer's aforementioned trademarks including the strength and distinctiveness of Opposer's internationally famous trade dress consisting of the Roof Design.

Opposer is the true owner of the well-known marks 'MARLBORO & ROOF DESIGN', 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY'

"16. Opposer's trademarks 'MARLBORO & ROOF DESIGN', 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY' are well-known internationally and in the Philippines by reason of long and continuous use of the marks, and the numerous worldwide applications and registrations of said mark.

"17. In the Philippines, Opposer was first to register and apply for the following trademarks:

x x x

"18. To date, Opposer owns over 2,000 trademark applications and registrations for the marks 'MARLBORO & ROOF DESIGN', 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY' and variations throughout the world including but not limited to the following countries: Singapore, Thailand, China, Australia, United Kingdom, Switzerland, etc. x x x

"19. The above-mentioned trademarks of Opposer have been extensively used and marketed by Opposer as well as through Opposer's extensive network of licensees, distributors and dealers on a worldwide basis, including the Philippines.

Fame and notoriety of 'MARLBORO & ROOF DESIGN', 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY' arising from extensive use and advertising and from its overwhelming global patronage

"20. Because of Opposer's aggressive worldwide sales, promotions and as far as all local laws permit, advertising, 'MARLBORO & ROOF DESIGN', 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY' are well-known in many parts of the world including the Philippines.

"21. Opposer was able to secure numerous acknowledgments from different jurisdictions worldwide acknowledging and declaring its brands, including 'MARLBORO & ROOF DESIGN' Trademarks as well-known. x x x

"22. Extensive promotion, sale and distribution of Opposer's products bearing the 'MARLBORO & ROOF DESIGN', 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY' are achieved through the Internet. The relevant websites include the following:

x x x

"23. Opposer has also prominently and consistently advertised its 'MARLBORO & ROOF DESIGN', 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY' trademarks in numerous publications which include, but are not limited to, Readers Digest, The Maxwell Report, '2008 BRANDZ™ Top 100 Most Powerful Brands'. These publications are widely sold and circulated worldwide, including the Philippines. x x x

"24. Through Opposer's extensive marketing of its products and the nature and quality of Opposer's goods, Opposer has attained tremendous sales and patronage of its products bearing the 'MARLBORO & ROOF DESIGN', 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY' trademarks. Below are the annual sales figures of Opposer's products bearing the 'MARLBORO & ROOF DESIGN' trademark for the last five (5) years including sales in the Philippines.

x x x

"26. The fame and well-known status of 'MARLBORO & ROOF DESIGN', 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY' trademarks are likewise attributed to the legal protection obtained by Opposer for the said trademarks in many countries, as well as its efforts at obtaining and maintaining exclusive right to the use and ownership of said trademarks.

The strength of Opposer's rights to the 'MARLBORO & ROOF DESIGN', 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY' trademarks

"27. Opposer has been consistent throughout the years in using the ROOF DESIGN in its cigarette products particularly in the Marlboro line.

"28. Opposer has been using the 'MARLBORO & ROOF DESIGN' since 1955. The ROOF DESIGN has remained substantially unchanged and has remained the worldwide symbol for Opposer's brand of cigarettes ever since its first use more than fifty years ago.

"29. Moreover, Opposer has been using a very distinctive ad campaign wherein the slogans 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY' are used.

"30. Through the years, Marlboro ad campaigns have been represented by reddish colors, American Western landscapes and a rugged cowboy. These three elements, either combine or separate, are well-recognizable and known as MARLBORO COUNTRY. This together with the consistent and very distinguishable ROOF DEVICE formed part of the Marlboro ad campaign that has become immediately and universally recognizable icon embodying an idealized and American lifestyle associated with the said brand of cigarettes. x x x

"31. Said campaign was also used in marketing Opposer's products in the Philippines.

Opposer's 'MARLBORO & ROOF DESIGN', 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY' trademarks are well-known in the Philippines

"32. In the Philippines, Opposer's 'MARLBORO & ROOF DESIGN' has been used for cigarettes in Class 34 since 1955. The Philippine market in terms of volume represents the sixth (6th) Marlboro market in the world excluding USA. In 2004, 2005, 2006 & 2007, Marlboro was the largest selling brand in the Philippines with market shares, by way of example, of approximately 17.1% in 2004, 18.2% in 2005, 19.4% in 2006, and 19.8% in 2007. Of course, the Marlboro branded cigarettes would always bear the well-known and distinctive 'ROOFDESIGN'

and has done so since 1955.

"33. Opposer's Marlboro products which bear the 'MARLBORO & ROOF DESIGN' are being distributed throughout the Philippines exclusively by Philip Morris Philippines Manufacturing Inc.

Respondent-Applicant's mark 'COUNTRY INTERNATIONAL AND DESIGN (IN COLOR)' is confusingly similar with Opposer's 'MARLBORO (& ROOF DESIGN)' 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY' trademarks.

"34. Respondent-Applicant's trademark application for 'COUNTRY INTERNATIONAL AND DESIGN (IN COLOR)' is clearly confusingly similar with Opposer's trademarks 'MARLBORO (& ROOF DESIGN)' 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY'. A side by side comparison of said marks is found below:

x x x

"35. From the above, it is clear that Respondent-Applicant's trademark application for 'COUNTRY INTERNATIONAL AND DESIGN (IN COLOR)' is an infringing simulation of Opposer's well-known trademarks. The similarities are so apparent and very obvious that an ordinary purchaser will be lead into buying Respondent-Applicant's goods thinking that it is that of Opposer's.

"36. This is worsened by the fact that said application covers goods identical to that of Opposer's and all fall in class 34. Such will cause confusion among the purchasing public and hence, will surely dilute the distinctiveness of Opposer's trademarks.

"37. Without any doubt, the manner in which the mark 'COUNTRY INTERNATIONAL AND DESIGN (IN COLOR)' is used by Respondent-Applicant will lead to confusion of its goods and business with that of Opposer's. Indeed, because of the very close resemblance between Respondent-Applicant's marks and Opposer's marks, it is also very likely that the public will be confused into thinking that Respondent-Applicant's mark is associated with or under the sponsorship of Opposer.

"38. There is no denying that Respondent-Applicant is riding on the goodwill and popularity of Opposer's mark, especially since the goods covered are the same. Respondent-Applicant has a boundless choice of words to identify its goods from the Opposer. There is no reason why Respondent-Applicant would choose the mark for cigarettes in Class 34 when the same is confusingly similar to the

Opposer's mark 'MARLBORO (& ROOF DESIGN)' 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY' which are also used for the same goods.

"39. Indeed, the identity or the confusing similarity between Respondent-Applicant's 'COUNTRY INTERNATIONAL AND DESIGN (IN COLOR)' mark and the internationally well-known marks 'MARLBORO (& ROOF DESIGN)' 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY' of Opposer is very likely to deceive the purchasers of goods on which the mark is being used, not only to the origin or sponsorship of goods but also as to the nature, quality, characteristics of the goods to which the mark is affixed.

"40. The approval of the subject mark for registration will violate the proprietary rights and interests, business reputation and goodwill of the Opposer considering that the same is

confusingly similar, if not identical to Opposer's 'MARLBORO (& ROOF DESIGN)' 'MARLBORO COUNTRY' and 'COME TO MARLBORO COUNTRY', marks that are highly distinctive and over which the Opposer have exclusive use and registrations in numerous countries worldwide.

"x x x"

The Opposer's evidence consists of the following:

1. certified true copies of:
 - a) some of the certificates of trademark registrations with their verified English translations, owned by the Opposer or its affiliates covering the ROOF DESIGN, MARLBORO COUNTRY, COME TO MARLBORO COUNTRY, and variations thereof;
 - b) a list compiled from the Opposer's MARLBORO & ROOF DESIGN, MARLBORO COUNTRY and COME TO MARLBORO and variations thereof in different countries;
 - c) "The Maxwell Report" showing that MARLBORO is the top world brand for tobacco products and 2008 BRANDZ Top 100 Most Powerful Brands reported by Millward Brown Optimor; and
 - d) advertisements, articles and press releases featuring Opposer's ROOF DESIGN and the MARLBORO COUNTRY and COME TO MARLBORO COUNTRY slogans published in numerous countries worldwide including the Philippines;
2. addresses of chains of establishments in the Philippines that carry the products of ROOF DESIGN and the MARLBORO COUNTRY and COME TO MARLBORO COUNTRY;
3. affidavits of Maria Del Mar Oliva and George Punkenhofer, and of Jan Abigail Ponce;
4. Special Power of Attorney in favor of Federis & Associates;
5. extract from the Commercial Register of issued by Companies Registry of the Canton of Neuchatel and the corresponding English translation thereof;
6. certified true copies of Phil. Reg. Nos. 4-2206-004690 for MARLBORO ROOF TOP DEVICE, 4-2005-008437 for MARLBORO (& ROOF DESIGN), 4-2005-01215 for MARLBORO & ROOF DESIGN, 4-2006-003969 for COME TO MARLBORO COUNTRY, 4-2006-008461 for MARLBORO COUNTRY, all in Class 34; and
7. printouts of Internet websites which promotes, advertises, sales and distributes Opposer's products bearing the MARLBORO ROOF DESIGN, MARLBORO COUNTRY and COME TO MARLBORO COUNTRY, and of the websites www.philipmorrisinternational.com and www.philipmorris.com.⁴

The Respondent-Applicant filed its Answer on 14 July 2009, alleging among other things, the following:

"6. Respondent is a limited liability company organized and existing under the laws of Indonesia with office address at JL Raya Karanglo, Siingosari, Malang 65153 Indonesia.

"7. Respondent is the registered owner and proprietor of the mark COUNTRY INTERNATIONAL & DESIGN (IN COLOR) for Cigarettes, filter cigarettes, tobacco and

⁴ Exhibits "A" to "M", inclusive.

tobacco products, cigars, cigarette boxes, lighters for smokers, smoker's articles and matches in Class 34 under Indonesian Certificate of Registration No. 523997 issued on December 5, 2001.

"8. Respondent has likewise registered or has pending applications for registration for the mark COUNTRY INTERNATIONAL & DESIGN (IN COLOR) in other countries around the world.

"9. Respondent first used the mark COUNTRY INTERNATIONAL & DESIGN (IN COLOR) on its products as early as 1998 in Indonesia.

"10. Through the years, Respondent has extensively used the mark COUNTRY INTERNATIONAL & DESIGN (IN COLOR) in Malaysia and Taiwan and has marketed its products bearing the mark COUNTRY INTERNATIONAL & DESIGN (IN COLOR).

"11. As a consequence of the Respondent's long, exclusive and uninterrupted use of the mark COUNTRY INTERNATIONAL & DESIGN (IN COLOR), the local and international sale of the COUNTRY INTERNATIONAL & DESIGN (IN COLOR) products and enormous amount spent for the mark's promotion and advertisement, the COUNTRY INTERNATIONAL & DESIGN (IN COLOR) mark has attained a high degree of fame and popularity, has become a source identifier, and has gained valuable goodwill.

"12. Respondent's mark COUNTRY INTERNATIONAL & DESIGN (INCOLOR) is neither confusingly similar, nor identical with the any of Opposer's cited marks: MARLBORO; ROOF DESIGN; MARLBORO COUNTRY; and COME TO MARLBORO COUNTRY by applying either or both the Dominancy Test and the Holistic Test.

"13. The mark COUNTRY INTERNATIONAL & DESIGN (IN COLOR) of Respondent is a distinctive composite mark consisting of the words "COUNTRY" in Serif Capital type rotated ninety degrees (90°) and "INTERNATIONAL" in Script type, and the design of two (2) stylized pentagons positioned vertically as background for "COUNTRY" and "INTERNATIONAL" and a pointed crown, rectangle, arc, shield, and illustration of a rearing horse as stylized coat of arms in colors of red, brown and gold.

"14. On the other hand, Opposer's MARLBORO mark consists of the single word MARLBORO in block letters with the letter "M" in the upper case format and the rest of the letters in lower case format. Opposer's ROOF DESIGN consists of one (1) irregular pentagon and one (1) triangle and is depicted horizontally and only in red. Opposer's composite marks MARLBORO COUNTRY and COME TO MARLBORO COUNTRY consists simply of letters all in upper case format.

"15. In addition, Opposer's ROOF DESIGN mark has the following easily discerned discrepancies/differences with the DESIGN in Respondent's mark, to wit:

- a. In the Respondent's DESIGN mark, the irregular pentagons are positioned vertically, whereas the irregular pentagon in Opposer's ROOF DESIGN mark is positioned horizontally above a triangle;
- b. In the Respondent's DESIGN mark, the irregular pentagons are on different angles compared to the irregular pentagon incorporated in Opposer's ROOF DESIGN mark;
- c. The irregular pentagons incorporated in Respondent's DESIGN mark have two (2) even sides and two (2) uneven sides, whereas the irregular pentagon in Opposer's ROOF Design mark has four (4) even sides; and
- d. In the Respondent's DESIGN mark, one of the irregular pentagons has a thick horizontal white line through the bottom of the irregular pentagon, whereas there are no lines (either horizontal or vertical) through the irregular pentagon incorporated in Opposer's ROOF Design mark.

"16. Opposer's MARLBORO mark is obviously totally different from Respondent's mark; Opposer's ROOF DESIGN is unlike Respondent's DESIGN, which consists of a stylish geometric design depicted horizontally and a stylized coat of arms with an illustration of a horse in red, brown and gold colors; while in Opposer's composite marks MARLBORO COUNTRY and COME TO MARLBORO COUNTRY, only the word COUNTRY is the same but the word COUNTRY in Respondent's mark is rotated ninety degrees (90°) and written vertically.

The Respondent-Applicant's evidence consists of the legalized and notarized Sworn Statement of Nicolaas Bernadus Tirtadinata, sample of product label bearing the Respondent-Applicant's mark, certified true copy of Indonesian Cert. of Reg. No. 523997, copy of a Substitute of Cert. of Trademark Reg. No. 576061/Kor235920 in Thailand, certified true copy of Vietnam Cert. of Reg. No. 75491, list of countries where the mark is applied for registration and/or being used, and photographs and copies of the promotional merchandise, list of name of countries.⁵

The Opposer filed a Reply on 12 February 2010 together with copies of the "Notice of Examination Results", "Notice of Final Refusal" and the "Information Brief", and the corresponding English translations thereof, in connection with the opposition filed by Opposer in the Republic of Korea against the Respondent-Applicant's Korean trademark application No. 40-2004-0052651 for "COUNTRY INTERNATIONAL & DESIGN (IN COLOR)"⁶. On 17 August 2009, the preliminary conference was terminated. Then after, the Opposer filed its position paper on 05 October 2009 while the Respondent-Applicant did so on 12 October 2009.

Should the Respondent-Applicant's trademark application be allowed?

Sec. 123.1 (d) of Rep. Act No. 8293, also known as the Intellectual Property Code of the Philippines ("IP Code") which provides that a mark cannot be registered if it is identical with a registered mark belonging to a different proprietor or a mark with an earlier filing or priority date in respect of the same goods or services, or closely related goods or services, or if it nearly resembles such a mark as to be likely to deceive or cause confusion. In this regard, the records show that at the time the Respondent-Applicant filed its trademark application on 25 October 2007, the Opposer already has existing trademark registrations in the Philippines, namely:

1. No. 4-2006-004690 for MARLBORO ROOF TOP DEVICE issued on 20 August 2007;
2. No. 4-2005-008437 for MARLBORO (& ROOF DESIGN)" issued on 11 June 2007;
3. No. 4-2005-01215 for MARLBORO & ROOF DESIGN issued on 15 October 2007; and
4. No. 4-2006-003969 for COME TO MARLBORO COUNTRY issued on 26 February 2007.

It even has an earlier application for the mark MARLBORO COUNTRY which was subsequently issued a registration on 12 January 2009. These registrations cover goods under Class 34, and which are similar to those indicated in the Respondent-Applicant's application. They serve the same purpose and flow the same channels of trade. Hence, they are competing goods.

Be that as it may, this Bureau finds that confusion or deception is unlikely to occur at this instance. The competing marks are shown below for comparison.

⁵ Exhibits "1" to "6".

⁶ Marked as Exhibits "N" to "N-2".



MARLBORO COUNTRY

COME TO MARLBORO COUNTRY

Opposer's marks



Respondent-Applicant's mark



The competing marks' product labels

The mark sought to be registered by the Respondent-Applicant is the composite mark COUNTRY INTERNATIONAL & DESIGN (IN COLOR). On the other hand, the Opposer's trademark registrations cover the composite marks MARLBORO, MARLBORO COUNTRY, COME TO MARLBORO COUNTRY and the "roof design". Comparing the trademarks, the dissimilarities are strikingly significant to easily distinguish one from the other. The feature in the Opposer's label that draws the eyes and the ears is the word MARLBORO, while in the Respondent-Applicant's, it is the word COUNTRY. These words are obviously different in spelling and pronunciation such that when spoken, one does not sound like the other. This Bureau noticed that while the Opposer has registrations for the composite marks MARLBORO COUNTRY and COME TO MARLBORO COUNTRY, these marks or even the word COUNTRY does not appear on the Opposer's product label.

There is also no colorable imitation of the Opposer's "roof design". The design in the Respondent-Applicant's mark hardly qualifies as a "roof design". The highlight of the design in the Respondent-Applicant's mark is the depression or angle created as the two boundary lines sloping downward from the opposite sides meet. Thus, the design looks more of a silhouette of "valley" than a roof. Moreover, the word COUNTRY is positioned above the design as against the word MARLBORO in the Opposer's mark which is placed under the roof design. The "coat-of-arms" in the Opposer's mark is placed between the roof design and the word MALBORO. In the Respondent-Applicant's mark, the "coat-of-arms" is located right after and at the same line as the word COUNTRY. These added features and configurations ensure contrasting visual properties between the competing marks.

Aptly, the general appearance of the competing marks greatly differs from one another such that the overall commercial impression conveyed by the two marks suggest no likelihood of confusion. While indeed the competing marks are used on cigarettes and tobacco products, the attention which the ordinary purchaser in the Philippines would give in buying these products should be considered. In *Philip Morris, Inc. et al. v. Fortune Tobacco Corporation*, the Court held:

"When we spoke of an 'ordinary purchaser', the reference was not to the 'completely unwary customer' but to the 'ordinarily intelligent buyer' considering the type of product involved.


"It cannot be over-emphasized that the products involved are addicting cigarettes purchased mainly by those who are already predisposed to a certain brand. Accordingly, the ordinary buyer thereof would be all too familiar with his brand and discriminating as well. We, thus, concur with the CA when it held, citing a definition found in *Dy Buncio vs. Tan Tiao Bok*, that the 'ordinary purchaser' in this case means 'one accustomed to buy, and therefore to some extent familiar with, the goods in question.'"⁷

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.⁸ This Bureau finds that the Respondent-Applicant's mark sufficiently serves this function.

WHEREFORE, premises considered, the instant Opposition is hereby **DISMISSED**. Let the filewrapper of Trademark Application Serial No. 4-2007-011946 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 10 August 2012.


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

⁷ G.R. No. 158589, 27 June 2006.

⁸ *Pribhdas J. Mirpuri v. Court of Appeals*, G.R. No. 114508, 19 Nov. 1999.