



ABS-CBN CORPORATION, ABS-CBN FILM PRODUCTIONS, INC., STAR RECORDING, INC., and ABS-CBN PUBLISHING, INC.,
Opposer,

-versus-

HALLOHALLO, INC.,
Respondent- Applicant.

X-----X

IPC No. 14-2012-00533
Opposition to:
Appln. Serial No. 4-2012-008136
Date Filed: 07 July 2012
TM: "STAR MOVIES CAFE
MOVIE MEMORABILIA &
DVD CAFÉ & RESTAURANT"

NOTICE OF DECISION

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HALLOHALLO, INC.,
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GREETINGS:

Please be informed that Decision No. 2014 - 192 dated July 28, 2014 (copy enclosed) was promulgated in the above entitled case.

Taguig City, July 28, 2014.

For the Director:

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



ABS-CBN CORPORATION, ABS-CBN FILM PRODUCTIONS, INC., STAR RECORDING, INC., and ABS-CBN PUBLISHING, INC.,

Opposer,

-versus-

HALLOHALLO, INC.,

Respondent-Applicant.

x ----- x

IPC No. 14-2012-00533

Opposition to Trademark

Application No. 4-2012-008136

Date Filed: 07 July 2012

Trademark: **"STAR MOVIES CAFÉ MOVIE MEMORABILIA & DVD CAFÉ & RESTAURANT"**

Decision No. 2014- 192

DECISION

ABS-CBN Corporation, ABS-CBN Film Productions, Inc. Star Recording, Inc. and ABS-CBN Publishing, Inc.¹ ("Opposers") filed an opposition to Trademark Application Serial No. 4-2012-008136. The application, filed by Hallohallo, Inc.² ("Respondent-Applicant"), covers the mark "STAR MOVIES CAFÉ MOVIES MEMORABILIA & DVD CAFÉ & RESTAURANT" for use on "restaurant" under Class 43 of the International Classification of Goods³.

According to the Opposers, ABS-CBN has been using "STAR", "STAR CINEMA" and the other derivative marks as early as 1986 to 1987 when it was relaunched as "THE STAR NETWORK" shortly after the EDSA Revolution and started airing programs billed as "STAR ATTRACTIONS". In 1993, they started using "STAR DRAMA THEATER" in connection with its popular television show. In the same year, its affiliate and predecessor-in-interest started using the "STAR CINEMA" mark in connection with its numerous movies. Then on 1995, another subsidiary, Star Records, started using the "STAR RECORDS" mark in its records, concerts and other music-related products.

The Opposers aver that all their registration and applications for registration were filed ahead of Respondent-Applicant's trademark application. In particular, the mark "STAR CINEMA PRODUCTIONS, INC. and DEVICE" was applied for registration as early as 09 August 1994 or eighteen (18) years before the filing of the subject application. The Opposers assert that Respondent-Applicant's mark should be disallowed for being confusingly similar to their "STAR" mark and its derivatives. They argue that as "STAR MOVIES CAFÉ MOVIE MEMORABILIA & DVD CAFÉ & RESTAURANT" is being used for a movie-themed business, its association with the

¹ A corporation existing under the laws of United Kingdom with principal office at St. James Court, Great Park Road, Almondsbury Park, Bradley Stoke, Bristol, United Kingdom

² With office address at Penthouse, Carlos J. Valdes Building, 108 Aguirre Street, Legaspi Village, Makati City.

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.

Opposers and the latter's marks, specifically "ABS-CBN FILMS" and "STAR CINEMA" is highly likely, if not inevitable. They further that a movie or entertainment-themed business is clearly within the reasonable zone of normal expansion of their entertainment and movie business. Thus, the Opposers claim that Respondent-Applicant's mark will lead to the dilution of their own "STAR" marks.

In support of its allegations in the Opposition, the Opposer submitted the following as evidence:

1. certified copy of the Amended Articles of Incorporation of ABS-CBN;
2. affidavit of Ms. Evangeline Baylon;
3. certified copy of the list of samples of relevant print advertisements and articles which appeared in Manila Bulletin and Philippine Daily Inquirer;
4. printout of the application for "STAR MAGIC THEATER" filed on 15 August 1997;
5. printouts of screenshots from the website of Star Magic;
6. printouts of the trademark registration details of Opposers' marks;
7. certified copies of the Deeds of Assignment of the trademark application for of Opposers' marks;
8. certified copies of the Deeds of Assignment of the trademark application for "Star Cinema Productions, Inc. and Device" and the corresponding letters to the IPOPHL submitting them for recording;
9. affidavits of Miss Beverly Sanchez-Fernandez, Mr. Roxy Liquigan and Miss Mary Angeline Pineda;
10. certified copy of the Articles of Incorporation of Star Records;
11. certified copy of the Articles of Incorporation of ABS-CBN Publishing; and
12. printouts of webpages from the online store of Opposers' entertainment-themed merchandise.⁴

On 11 February 2013, a Notice to Answer was served upon the Respondent-Applicant. Despite receipt thereof, the latter failed to comply. Thus, the Hearing Officer was prompted to issue Order No. 2013-738 on 16 May 2013 declaring Respondent-Applicant in default and the case submitted for decision.

The issue to be resolved is whether or not the mark "STAR MOVIES CAFÉ MOVIES MEMORABILIA & DVD CAFÉ & RESTAURANT" should be registered in favour of Respondent-Applicant.

⁴ Marked as Exhibits "A" to "Y", inclusive.

Section 123.1 (d) of RA 8293, also known as the Intellectual Property Code of the Philippines ("IP Code") provides that:

"123.1. A mark cannot be registered if it:

(d) Is identical with a registered mark belonging to a different proprietor or a mark with an earlier filing or priority date, in respect of:

(i) The same goods or services, or

(ii) Closely related goods or services, or

(iii) If it nearly resembles such a mark as to be likely to deceive or cause confusion;

xxx."

Records and evidence show that the Opposers applied for the mark "STAR CINEMA PRODUCTIONS, INC. and DEVICE" as early as 09 August 1994. They were allowed registration for marks "STAR 98.7 ZAMBOANGA" and STAR 98.7 DAGUPAN" both on 28 November 2000. The Opposers are also applicants and registrants of various other marks, including the following:



MORNING STAR

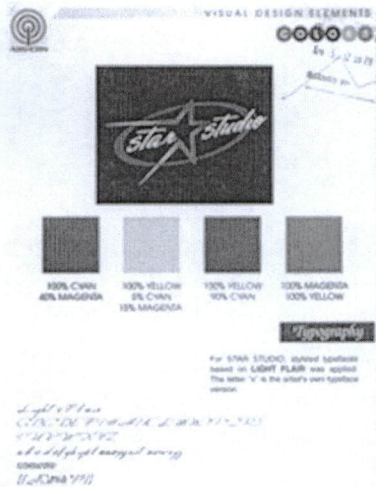
LITTLE BIG STAR

STAR MAGIC

STAR STUDIO

STAR IN A MILLION

STAR CIRCLE QUEST



IDOL THE SEARCH FOR THE NEXT BOXING STAR

STAR RADIO NETWORK & DEVICE

STAR RECORDS & DEVICE

On the other hand, Respondent-Applicant only filed its application for the mark below on 07 July 2012:



Perusing the Opposer's family of marks, it can be gleaned that all of them includes the word "STAR". This same is also the prominent feature of the mark of Respondent-Applicant. The word "STAR" what is impressed in the eyes and mind when one looks at the competing marks despite the fact that their presentations are different. Confusion cannot be avoided by merely adding, removing or changing some letters of a registered mark. Confusing similarity exists when there is such a close or ingenuous imitation as to be calculated to deceive ordinary persons, or such resemblance to the original as to deceive ordinary purchased as to cause him to purchase the one supposing it to be the other.⁵

It is true that the Opposers and Respondent-Applicant cater different markets and their services are differently classified. However, it is noteworthy that "STAR MOVIES CAFÉ MOVIES MEMORABILIA & DVD CAFÉ & RESTAURANT", as its name implies, is a movie-themed restaurant. Movies, television shows, radio and recordings are precisely the services catered by the Opposers. Hence, is highly

⁵ Societe des Produits Nestle,S.A. vs. Court of Appeals, GR No. 112012, 04 April 2001.

probable that the purchasers will be led to believe that Respondent-Applicant's restaurant is sponsored, affiliated or in any way connected with the Opposers. It is settled that confusion or mistake would subsist not only on the purchaser's perception of goods but on the origin thereof as held by the Supreme Court in **Skechers, U.S.A., Inc. vs. Interpacific Industrial Trading Corp.**⁶, to wit:

"Relative to the question on confusion of marks and trade names, jurisprudence has noted two (2) types of confusion, viz.: (1) confusion of goods (product confusion), where the ordinarily prudent purchaser would be induced to purchase one product in the belief that he was purchasing the other; and (2) confusion of business (source or origin confusion), where, although the goods of the parties are different, the product, the mark of which registration is applied for by one party, is such as might reasonably be assumed to originate with the registrant of an earlier product, and the public would then be deceived either into that belief or into the belief that there is some connection between the two parties, though inexistent."

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.⁷ Respondent-Applicant's mark fell short in meeting this function.

Accordingly, this Bureau finds and concludes that the Respondent-Applicant's trademark application is proscribed by Sec. 123.1(d) of the IP Code.

WHEREFORE, premises considered, the instant opposition is hereby **SUSTAINED**. Let the filewrapper of Trademark Application Serial No. 4-2012-008136 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 28 July 2014.


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

⁶ G.R. No. 164321, 23 March 2011.

⁷ Pribhdas J. Mirpuri vs. Court of Appeals, G.R. No. 114508, 19 November 1999.