



**FINANCIAL PLANNING STANDARD  
BOARD LTD.,**  
Opposer,

**-versus-**

**SOLID GROUND CONSULTING LIMITED,**  
Respondent- Applicant.

X-----X

**IPC No. 14-2012-00421**  
Opposition to:  
Appln. Serial No. 4-2012-006189  
Date Filed: 24 May 2012  
**TM: "CPP"**

### NOTICE OF DECISION

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#### GREETINGS:

Please be informed that Decision No. 2014 - 180 dated July 14, 2014 (copy enclosed) was promulgated in the above entitled case.

Taguig City, July 14, 2014.

For the Director:

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



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IPC No. 14-2012-00421

Opposition to Trademark

Application No. 4-2012-006189

Date Filed: 24 May 2012

Trademark: **CPP**

Decision No. 2014- 180

### DECISION

Financial Planning Standard Board Ltd.,<sup>1</sup> ("Opposer") filed an opposition to Trademark Application Serial No. 4-2012-006189. The contested application, filed by Solid Ground Consulting Ltd.<sup>2</sup> ("Respondent-Applicant"), covers the mark "CPP" for use on "*education; providing of training*" under Class 41 of the International Classification of Goods<sup>3</sup>.

The Opposer claims to be the owner/registrant/applicant of the trademark "CFP" and other marks containing the dominant letters "CFP" in various countries around the world for different International Classes, including Class 41. In the Philippines, it maintains that it has obtained registration of its mark as early as 16 June 2008, much earlier than the filing of the contested application. It avers that the applied "CPP" mark is confusingly similar to its trademark "CFP" for the following reasons:<sup>4</sup>

- a. The dominant elements in the published marks are the letters C-P-P, which is confusingly similar to the dominant elements in Opposer's mark, the letters C-F-P.
- b. The marks are practically the same as both consist of three letters and end with the same letters. The only dissimilarity between the marks is in the middle letter, which is P in Respondent-Applicant's mark and F in Opposer's mark. This distinction however is not sufficient to separate the marks.
- c. In terms of appearance, the letters P and F are almost similar. The only missing element in letter F to make it a letter P is a loop that connects the upper and lower horizontal lines. When viewed, therefore the marks CPP and CFP are almost identical.

<sup>1</sup>A corporation duly organized and existing under and by virtue of the laws of Delaware, United States of America, with business address at Suite 2925, 707 17<sup>th</sup> Street, Denver, CO 80202, USA.

<sup>2</sup>With known address at P.O. Box 957, Offshore Incorporations Centre, Road Town Tortola, British Virgin Island.

<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.

<sup>4</sup> See Opposition, p. 4.

- d. Clearly, because the letters and the sequence of the letters are practically the same, the marks "look" alike. Furthermore, since the letters are almost the same, the marks are also almost identical in sound and pronunciation.

According to the Opposer, its use of the service mark "CFP" or "CERTIFIED FINANCIAL PLANNER" dates back to 1974 when the College for Financial Planning Inc. awarded CFP certification marks to students completing its post-graduate program. Then on 25 July 1986, the college transferred its ownership over the "CFP" marks to the International Board of Standards and Practices for Certified Financial Planners, Inc. (IBCFP). Later on in 21 January 1994, IBCFP changed its name to Certified Financial Planning Board of Standards, Inc. (CFP Board), which began using its mark.

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

1. Exhibits "A" to "A-1" – Certificate of Registration No. 4-2007-013880 for the trademark CFP issued by the Intellectual Property of the Philippines (IPOPHL);
2. Exhibits "B" to "B-13" – a list of Opposer's active applications and registrations for CFP and other marks containing the letters CP;
3. Exhibit "C" - copy of the article "Want to be a financial planner?";
4. Exhibits "D" to "D-4" – printouts of its websites on the Internet, <http://cfp.org> and <http://cfp.org.ph>;
5. Exhibits "E" to "E-2" and "F" to "F-4" – a newspaper article on the Business Owner Planning workshop and printouts of Google adWords website;
6. Exhibits "G" to "G-2" – duly signed, notarized and legalized Corporate Secretary's Certificate; and,
7. Exhibits "H" to "H-5" – legalized affidavit-testimony of Tamara S. Monroe.

A Notice to Answer was issued and served upon the Respondent-Applicant on 10 December 2012. The latter, however, did not file its Answer. Accordingly, the Hearing Officer issued Order No. 2013-1073 on 30 July 2013 declaring the Respondent-Applicant in default and the case was submitted for decision.

The issue to be resolved is whether the Respondent-Applicant's mark "CPP" should be registered in favor of Respondent-Applicant.

Records reveal that at the time Respondent-Applicant filed an application for registration of its mark "CPP, the Opposer has a valid and existing registration of its mark "CFP LOGO MARK" issued on 16 June 2008 under Certificate of Registration No. 4-2007-013880 for goods and/or services under Classes 09, 16, 36, 41 and 42.

Now, to determine whether the marks of Opposer and Respondent-Applicant are confusingly similar, the competing marks are reproduced below for comparison:



*Opposer's mark*



*Respondent-Applicant's mark*

Perusing the contending marks, it is apparent that the only conspicuous dissimilarity between the two is their respective second letters, i.e. "F" and "P", and the semi-circle logo above the word "CFP" in Opposer's mark. This is not sufficient to prevent the likelihood of confusion and/or deception. 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.<sup>5</sup>

Moreover, Opposer's registration includes services for *"educational, instructional services and seminars; organizing, administering, supervising and marketing examinations and competitions in fields of finance, banking, insurance and investments; publishing services; publishing printed matter and computer software* under Class 41. These services are closely related, if not similar, to *"education; providing of training"* also under Class 41, which services Respondent-Applicant applied its mark for. It is thus highly likely that consumers will have a mistaken perception that "CPP" and "CFP" are, in one way or another, associated or affiliated or connected. Noteworthy, while the Opposer has sufficiently explained that "CPP" stands for "Certified Financial Planner", Respondent-Applicant failed to provide any justification for its insistence to use the mark "CFP". As aptly held by the Supreme Court in **American Wire & Cable Company vs. Director of Patents**<sup>6</sup>:

*"Of course, as in all other cases of colorable imitations, the unanswered riddle is why, of the millions of terms and combinations of letters and designs available, the appellee had to choose those so closely similar to another's trademark if there was no intent to take advantage of the goodwill generated by the other mark."*

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

<sup>6</sup> G.R. No. L-26557, 18 February 1970.

Succinctly, Callman notes two types of confusion. The first is the confusion of goods "in which event the ordinarily prudent purchaser would be induced to purchase one product in the belief that he was purchasing the other." In which case, "defendant's goods are then bought as the plaintiff's, and the poorer quality of the former reflects adversely on the plaintiff's reputation." The other is the confusion of business: "Here though the goods of the parties are different, the defendant's product is such as might reasonably be assumed to originate with the plaintiff, and the public would then be deceived either into that belief or into the belief that there is some connection between the plaintiff and defendant which, in fact, does not exist."<sup>7</sup>

Accordingly, this Bureau finds and concludes that the Respondent-Applicant's trademark application is proscribed by Sec. 123.1(d) of the IP Code, which provides that a mark cannot be registered if it is identical with a registered mark belonging to a different proprietor with an earlier filing or priority date, with respect to the same or closely related goods or services, or has a near resemblance to such mark as to likely deceive or cause confusion.

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>8</sup> Based on the above discussion, Respondent-Applicant's trademark failed to meet this function.

**WHEREFORE**, premises considered, the instant opposition is hereby **SUSTAINED**. Let the filewrapper of Trademark Application Serial No. 4-2012-006189 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

**SO ORDERED.**

Taguig City, 14 July 2014.

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

<sup>7</sup> Societe des Produits Nestle, S.A. vs. Dy, G.R. No. 172276, 08 August 2010.

<sup>8</sup> Pribhdas J. Mirpuri vs. Court of Appeals, G.R. No. 114508, 19 November 1999.