



YALE UNIVERSITY,
Opposer,

-versus-

EDRALYN BORNILLO,
Respondent- Applicant.

x-----x

}
} IPC No. 14-2008-00256
} Opposition to:
} Appln. Serial No. 4-2008-000645
} Date Filed: 18 January 2008
} TM: "YALEX AND
} TREE DEVICE"
}
}
}
}

NOTICE OF DECISION

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GREETINGS:

Please be informed that Decision No. 2014 - 235 dated September 26, 2014 (copy enclosed) was promulgated in the above entitled case.

Taguig City, September 26, 2014.

For the Director:


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



YALE UNIVERSITY, }
Opposer, }
 -versus- }
 EDRALYN BORNILLO }
Respondent-Applicant. }

x-----x

IPC No. 14-2008-00256
 Case Filed: 24 October 2008
 Opposition to:
 Application No. 4-2008-000645
 Date Filed: 18 January 2008
 Trademark: "YALEX AND
 TREE DEVICE"

Decision No. 2014- 235

DECISION

YALE UNIVERSITY ¹ ("Opposer") filed an opposition to Trademark Application Serial No. 4-2008-000645. The application, filed by Edralyn Bornillo ² ("Respondent-Applicant"), covers the mark "YALEX AND TREE DEVICE" for use on "t-shirt, blouse, sando, skirts, jeans, short pants, polo shirt, pants, underwear, brassiers, long sleeve shirts and polos" under Class 25 of the International Classification of Goods and Services.³

The Opposer alleges:

x x x

"The grounds for the opposition to the registration of the trademark are as follows:

"1. The Opposer is the first to adopt, use and register the "YALE" trademark and its derivatives ("YALE trademarks", for brevity). The "YALE" trademarks are well-known worldwide and in the Philippines being identified with Opposer, YALE UNIVERSITY, a premier educational institution providing instruction and training at the undergraduate, graduate, post-graduate, and professional levels falling under international class 41 and therefore, enjoys under Section 147 of Republic Act (R.A.) No. 8293 the right to exclude others from registering or using an identical or confusingly similar mark such as Respondent-Applicant's "YALEX AND TREE DEVICE" trademark. Its educational services carried under said trademarks had, for more than 300 years, earned international acclaim, as well as the distinct reputation of high quality educational services.

In addition to world-wide certificates of registrations for its services as a premier educational institution under international class 41, Opposer has also been issued world-wide registrations covering goods/services under Classes 6, 9, 11, 12, 14, 16, 17, 18, 20, 21,

¹ A foreign non-profit corporation organized under the laws of the United States of America, with business address at No 2 Whitney Avenue, New Haven, CT 06510, U.S.A.

² With address at Bldg. No. 1, Unit No. 2 South Terminal Commercial Center, 3030 Taft Avenue Extension, Pasay City.

³ The Nice Classification is a classification of goods and services for the purpose of registering trademark and service marks, based on a 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 Purposes of the Registration of Marks concluded in 1957.

24, 25, 26, 27, 28, 35, 37, 42, 43, 45, 52, and 112 for the "YALE" trademarks. The "YALE" trademark is used in particular for the following goods falling under class 25: shirts, suits, headwear, footwear, sweaters, ponchos, rainwear, garters, sleepwear and undergarments.

"2. There is likelihood of confusion between Opposer's "YALE" trademarks and Respondent-Applicant's "YALEX AND TREE DEVICE" mark because the latter's mark is identical in sound, spelling and appearance to the former's "YALE" trademarks. Moreover, Respondent-Applicant's use of the "YALEX AND TREE DEVICE" mark for its products in class 25 will dilute the distinctiveness and erode the goodwill of Opposer's "YALE" trademarks.

"3. The Opposer's "YALE" trademarks are well-known internationally and in the Philippines, taking into account the knowledge of the relevant sector of the public, rather than the public at large, as being trademarks expressly and directly referring to and owned by the Opposer hence, the Respondent-Applicant's "YALE" mark cannot be registered in the Philippines pursuant to the express provision of Sections 123 (e) and 147.2 of R.A. No. 8293. No doubt, the use of Respondent-Applicant's "YALE" mark for its products will indicate a connection between these products and those of the Opposer's. Likewise, the interests of the Opposer are likely to be damaged by Respondent-Applicant's use of the "YALEX AND TREE DEVICE" mark for its products in class 25.

"4. The Respondent-Applicant, by using "YALEX AND TREE DEVICE" as its mark, will give its products the general appearance of Opposer's related products/services, which would likely influence purchasers to believe that its "YALEX AND TREE DEVICE" products are those supervised and authorized by the Opposer thereby deceiving the public and defrauding the Opposer of its legitimate trade, hence it is guilty of unfair competition as provided in Section 168.3 of R.A. No. 8293.

"5. Respondent-Applicant, by adopting the "YALEX AND TREE DEVICE" mark for its products in class 25, is likely to cause confusion, or to cause mistake, or to deceive as to affiliation, connection, or association with the Opposer, or as to origin, of its products by the Opposer, for which it is liable for false designation of origin, false description or representation under Section 169 of R.A. No 8293.

"6. The mark "YALE" being registered for educational services under class 41 is protected under Section 165 of Republic Act (R.A.) 8293 even prior to or without registration against unlawful acts such as its unauthorized use by Respondent-Applicant.

"Opposer relies on the following facts to support its opposition, reserving the right to present other evidence to prove these facts and others as may appear necessary or expedient in the course of the proceedings, depending upon the evidence to be presented by Respondent-Applicant:

"1) The Opposer's "YALE" trademarks, with registrations and applications world-wide, are well-known internationally and in the Philippines.

"The Opposer's "YALE" trademarks have been used, promoted and advertised for a considerable duration of time and over wide geographical areas. Opposer has invested tremendous amount of resources in the promotion of the "YALE" trademarks through articles and advertisements published in well-known magazines, books,

journals, and brochures, to name a few. Opposer also maintains a website, www.yale.edu. A book entitled "Yale: College Programs of Study Fall and Spring Terms 2007-2008" is attached as Exhibit "A."

"There is already a high degree of distinction of the Opposer's "YALE" trademarks having been used in commerce as early as 1814. Having been in existence since 1701, YALE has earned international acclaim, as well as the distinct reputation of a provider of high quality educational services. As evidence of its worldwide popularity, international students have made their way to Yale since the 1830s, when the first Latin American student enrolled. The first Chinese citizen to earn a degree at a Western college or university came to Yale in 1850. Today, international students make up nearly 9 percent of the undergraduate student body and 16 percent of all students at the University.

"Today, Yale is ranked fourth (4th) among the top 40 universities in the world by Newsweek magazine. Its 11,000 students come from all fifty American states and from 108 countries. Filipinos are among the many international scholars who have studied at Yale University. At present, there are about 114 living Yale alumni in the Philippines.

"Attached as Exhibits are copies of the statistics of Yale University Alumni living outside of the U.S. by Country as Exhibits "B" to "B-3" and Annual Report International Students and Scholars 2007-2008 as Exhibit "C.

"In addition, worldwide certificates of registrations for "YALE" trademarks for international classes 41, 9, 11, 12, 14, 16, 17, 18, 20, 21, 24, 25, 26, 27, 28, 35, 37, 42, 43, 45, 52 and 112 as well as listing of all registrations and applications worldwide are attached as Exhibits "D-D1", "E" to "E-1", "F" to "F-1", "G" to "G-1", "H" to "H-1", "I" to "I-1", "J" to "J-1", "K" to "K-1" and "L" to "L-16", respectively.

"2) There is likelihood of confusion between Respondent-Applicant's "YALEX AND TREE DEVICE" mark and Opposer's "YALE" trademarks.

"Being an exact reproduction Opposer's "YALE" trademark, the Respondent-Applicant's "YALEX AND TREE DEVICE" mark is undoubtedly confusingly similar to Opposer's "YALE" trademarks in sound, spelling and appearance as would likely influence the purchasers to believe that Respondent-Applicant's products are those of the Opposer's. Confusion is made more certain since the Respondent-Applicant's "YALEX AND TREE DEVICE" trademark and Opposer's "YALE" trademarks are both used for identical goods falling under the same international class 25.

"It bears stressing that the mark "YALE" was originally adopted by the Opposer being the name of its benefactor, the Welsh merchant Elihu Yale, who had donated the proceeds from the sale of nine bales of goods together with 417 books and a portrait of King George I to Yale College (now Yale University) in 1718.

"The dominant part of respondent-applicant's mark is "YALE" which is obviously the opposer's trademark "YALE". Appending the letter "X" to the mark "YALE" will still lead to confusion between the two marks.

"3) The use of Respondent-Applicant's "YALEX AND TREE DEVICE" mark for its products would indicate a connection to the products/services covered in

Opposer's "YALE" trademarks hence, the interests of the Opposer are likely to be damaged.

"Respondent-Applicant's products are clearly identical to Opposer's products/services covered by its "YALE" trademarks. The use by Respondent-Applicant of the "YALEX AND TREE DEVICE" mark for its products will definitely mislead the public into believing that its products originate from Opposer or that Respondent-Applicant is associated with or an affiliate of the Opposer.

"The flagrant and veritable imitation of herein Opposer's "YALE" trademarks is likely to cause confusion, mistake and deception to the buying public as to the source and origin of Respondent-Applicant's products.

"It is therefore, obvious that it is the resultant goodwill and popularity of Opposer's "YALE" trademarks that Respondent-Applicant wishes to exploit and capitalize. Accordingly, the use and approval for registration of Respondent-Applicant's "YALEX AND TREE DEVICE" mark constitutes an infringement or invasion of Opposer's property rights to its "YALE" trademarks which is protected by law. Such will most assuredly cause the dilution and loss of distinctiveness of Opposer's "YALE" trademarks as well as cause irreparable damage and injury to Opposer.

"Undoubtedly, the use, sale, and distribution by the Respondent-Applicant of "YALEX AND TREE DEVICE" products will inflict considerable damage to the interests of the Opposer. To allow Respondent-Applicant to register the "YALEX AND TREE DEVICE" mark for its products will constitute a mockery of our laws protecting intellectual property rights. It will legitimize its unfair and unlawful business practice.

"Copy of the affidavit of Opposer's witness. Linda Koch Lorimer, is attached and made an integral part hereof as Exhibits "M" to "M-4".

"4) The mark "YALE" is Opposer's tradename and is protected under Section 165 of Republic Act (R.A.) 8293 even prior to or without registration against unlawful acts such as its unauthorized use by Respondent-Applicant.

"The Opposer has the right to protect its tradename against unlawful acts particularly against any use likely to mislead the public. Section 165 of R.A. No. 8293 provides:

x x x

"The use by Applicant-Registrant of Opposer's tradename will undoubtedly mislead the public that its products are those of the Opposer's.

"Enclosed are five (5) actual labels of the "YALE" trademarks used in the market.

The Opposer's evidence consists of a book entitled "Yale: College Programs of Study Fall and Spring Terms 2007-2008"; copies of the statistics of Yale University Alumni living outside of the U.S. by Country; copy of the Annual Report International Students and Scholars 2007-2008; a list of worldwide registrations and applications and

certified true copies of several registrations for "YALE" trademarks; and a copy of the affidavit of Opposer's witness, Linda Koch Lorimer.⁴

This Bureau issued a Notice to Answer and served a copy thereof upon Respondent-Applicant, Edralyn Bornillo, on 13 January 2009. The Respondent-Applicant filed their Answer on 12 March 2009 and avers the following:

x x x

"1. That Respondent-Applicant specifically denies the allegations contained in paragraph 1 of the grounds relied upon by the Opposer, for lack of knowledge or information sufficient to form a belief as to the truth thereof.

"2. That Respondent-Applicant specifically denies the allegations contained in paragraphs 2, 3, 4, 5 and 6 of the grounds relied upon by the Opposer, the truth being those stated in the Affirmative Defenses.

"3. That Respondent-Applicant specifically denies the allegation in paragraph 1 of the facts relied upon by the Opposer for lack of knowledge or information sufficient to form a belief as to the truth thereof.

"4. That Respondent-Applicant specifically denies the allegations contained in paragraphs 2, 3 and 4 of the facts relied upon by the Opposer, the truth being those stated in the Affirmative Defenses.

"And by way of -

"SPECIAL AND AFFIRMATIVE DEFENSES

"Respondent-Applicant repleads and incorporates by way of reference the allegations above set-forth as may be relevant herein and further alleges that:

"5. The registration of respondent's mark will not prejudice the Opposer. The claim that respondent's mark "YALEX AND TREE DEVICE" is similar to Opposer's mark "YALE" is completely without any factual and legal basis. In order to determine whether the mark sought to be registered is identical or confusingly similar to other marks, the inquiry should be directed to the mark sought to be registered, the entire commercial impression or representation of the mark and the goods on which it is used or for which it is registered. A close comparison of the labels actually used by respondent-applicant on its goods and that of the Opposer would readily reveal the apparent dissimilarity between the two marks. The two marks taken in their entirety are different and distinct from each other. The respondent's mark consists of the capital letters "YALEX AND TREE DEVICE" whereas the labels of the Opposer consist of the word "Yale" and below it is the word "UNIVERSITY." Copies of the Respondent-Applicant's labels are hereto attached as Annex "1". Obviously, the two marks are totally distinct from each other not only in style and representation but in appearance, spelling, number of letters and pronunciation as well.

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

"6. The respondent-applicant has been using the trademark "YALEX & TREE DEVICE" in commerce on t-shirts, polo shirts, blouses, skirts, jeans, short pants, and pants from the time she filed the trademark application therefor on January 2008 up to the present. Attached herewith and made an integral part of this Answer are photos of respondent-applicant's t-shirts and polo shirts on which the mark is used, collectively marked as Annex "2".

"7. Respondent-Applicant's products bearing the mark "YALEX & TREE DEVICE" are sold/distributed to various commercial establishments in the Philippines nationwide namely:

- a. The Beefly Clothing Center - Jr. Borja Ext., Cagayan de Oro City
- b. Parson Enterprise - 173 Taft Avenue, Baclaran, Paranaque City;
- c. Taybee Commercial - 301-303 Manalili St. Cebu City
- d. RCO General Merchandise - Molave St., Bacolod City;
- e. Rinografix Print Shop Enterprise - South Montilla Boulevard, Butuan City

"Attached herewith and made integral parts of this Answer, collectively marked as Annexes "3" to "7", are photocopies of the various Sales Invoices issued to the above business establishments, evidencing the sale of shirts and blouses bearing the mark "YALEX & TREE DEVICE" nationwide.

"8. Respondent-Applicant never made any representations to the public that her products are derived from or related to the Opposer. The public has known that Respondent-Applicant's products are locally made and are in no way related to any goods coming from other countries or abroad. With these representations, the purchasing public has come to know, rely upon and recognize the quality of respondent-applicant's products.

"9. It is Respondent-applicant who first appropriated and exclusively used the mark "YALEX & TREE DEVICE" on t-shirts, polo shirts, blouses, skirts, jeans, short pants and pants in this jurisdiction. No proof has been presented by the Opposer to show its bonafide commercial use of the mark in the Philippines. Records would show that Opposer never conducted any business nor promoted its mark in the Philippines, thus belying its claim that it is a well-known mark here. It may be known to Filipinos who have gone abroad or studied in the said university but it is generally unknown to the public as a commercial brand for t-shirts, polo shirts, blouses, skirts, jeans, short pants and pants. While Opposer may have actually used the mark in commerce in other jurisdictions, there is no evidence to show that the mark was adopted, used and sold in commerce within this territory under Class 25.

"10. It is worth stressing that Opposer has no existing registration or pending application for the mark "YALEX & TREE DEVICE" filed with the Intellectual Property Office (IPO) of the Philippines to date.

"11. Under Sec. 123.1 (e) of Republic Act 8293, it is explicitly provided that:

x x x

"Simply put, for a mark to be accorded "well-known status", it is a requirement that the mark must be considered by competent authority in the Philippines to be well-known not only in the international market but in the Philippines as well. Opposer failed in proving this requirement of the law. There is no evidence to support the mark's "notoriety" in this jurisdiction. It has been ruled that mere ownership of various certificates of registration worldwide is insufficient to accord a "well-known status" to a mark unless the owner can also prove the mark's "notoriety" in the Philippines.

"12. In claiming that it will be damaged by the registration of the Respondent-Applicant's published mark, Opposer is relying heavily on its well-known status as an educational institution. While it is true that Opposer is a well-known and highly respected educational institution worldwide, such well-known status cannot be used as basis to exclude third parties from using the mark on other goods such as t-shirts, polo shirts, blouses, skirts, jeans, short pants, and pants. Opposer is not primarily engaged in the commercial sale or distribution of products bearing the mark "YALE" under Class 25. Hence, Opposer cannot be damaged by the use of the respondent-applicant of the mark "YALEX" on these goods.

"13. It is humbly submitted that even the possibility of mistaken association in the minds of the purchasing public regarding Opposer's products vis-à-vis Respondent-Applicant's products is very unlikely. First of all, Opposer's products are far more expensive compared to the goods sold by the Respondent-Applicant. Secondly, Opposer's products would bear labels stating that such goods are made abroad whereas Respondent-Applicant's products are locally made. Even the establishments selling or distributing the products of the two parties are different. As shown by Opposer's evidence, its goods under Class 25 can only be purchased exclusively at the Yale bookstore in the United States. Apparently, there are no other commercial establishments selling Opposer's goods to the public. Meanwhile, Respondent-Applicant's t-shirts, polo shirts, blouses, skirts, jeans, short pants bearing the mark "YALEX & TREE DEVICE" are sold and distributed by Philippine establishments only. There is simply no irreparable harm or damage posed to the Opposer by Respondent-Applicant's use of the mark "YALEX & TREE DEVICE" since those who deal with Opposer's products are discriminating purchasers and would not mistakenly associate the Opposer with the Respondent-Applicant.

"13. Furthermore, assuming without conceding that Opposer has rights to the mark "YALE", Opposer's rights are of narrow scope on account of the existing trademark registrations at the Intellectual Property Office (IPO) of the Philippines for marks which are identical to the Opposer's mark. It should be noted that some of these registrations even fall under the same class as that covered by the foreign registrations owned by the Opposer and yet these marks were allowed registration. These trademarks are as follows:

Trademark	Registration No.	Date Reg	Class	Registrant
YALE	4-1996-108013	Jan. 13, 2006	6	Assa Abloy AB
YALE	954	Jan. 25, 1989	6	Konishi Brewing Co. Ltd.
Yale	53921	Aug. 19, 1992	7	Yale Industrial Products Inc.
YALE	4-1997-120697	April 16, 2004	7	Assa Abloy AB

YALE 4-2002-003129 February 10, 2005 9 Assa Abloy AB
YALE 4-1997-124976 January 18, 2004 10 Becton Dickinson & Co.

"15. In sum, it is clear that as between the Respondent-Applicant and the Opposer, it is the former who stands to be prejudiced and damaged should the instant Opposition be sustained. Respondent-Applicant has sufficiently proven that it is the first and prior user of the trademark "YALEX & TREE DEVICE" in the Philippines on t-shirts, polo shirts, blouses, skirts, jeans, short pants and is therefore entitled to protection against herein Opposer.

The Respondent-Applicant's evidence consists of copies of Respondent-Applicant's labels; photos of Respondent-Applicant's t-shirts and polo shirts; and photocopies of the various sales invoices.⁵

The Opposer filed a Reply on 30 March 2009 together with the following additional evidence: copy of the Decision dated June 5, 2008 issued by the Office of the IPO Director General, and a copy of the Decision dated July 31, 2006 issued by the Bureau of Legal Affairs.⁶

The Respondent-Applicant, on the other hand, filed a Rejoinder on 22 April 2009. On 09 July 2009, the Preliminary Conference was terminated. Then after, the Opposer filed its position paper on 01 September 2009 while the Respondent-Applicant filed her position paper on 10 September 2009.

Should the Respondent-Applicant be allowed to register the trademark YALEX AND TREE DEVICE?

The Opposer anchors its opposition on the following provisions of Republic Act No. 8293, also known as the Intellectual Property Code of the Philippines ("IP Code"):

Sec. 123. Registrability. - 123.1. A mark cannot be registered if it:

X X X

- (e) Is identical with, or confusingly similar to, or constitute a translation of a mark considered well-known in accordance with the preceding paragraph, which is registered in the Philippines with respect to goods or services which are not similar to those with respect to which registration is applied for: *Provided*, That use of the mark in relation to those goods or services would indicate a connection between those goods or services, and the owner of the registered mark: *Provided further*, That the interests of the owner of the registered mark are likely to be damaged by such use.

Sec. 147.2. The exclusive right of the owner of a well-known mark defined in Subsection 123.1(e) which is registered in the Philippines, shall extend to goods and services which are not similar to those in respect of which the mark is registered: *Provided*, That use of the mark

⁵ Marked as Annexes "1" to "7".

⁶ Marked as Annexes "A" and "B".

in relation to those goods or services and the owner of the registered mark: Provided further, That the interests of the owner of the registered mark are likely to be damaged by such use.

Sec. 165. *Trade Names or Business Names.* - 165.1. A name or designation may not be used as a trade name if by its nature or the use to which such name or designation may be put, it is contrary to public order or morals and if, in particular, it is liable to deceive trade circles or the public as to the nature of the enterprise identified by that name.

Sec. 165.2. (a) Notwithstanding any laws or regulations providing for any obligation to register trade names, such names shall be protected, even prior to or without registration, against any unlawful act committed by third parties.

(b) In particular, any subsequent use of the trade name by a third party, whether as a trade name or a mark or collective mark, or any such use of a similar trade name or mark, likely to mislead the public, shall be deemed unlawful.

165.3. The remedies provided for in Sections 153 to 156 and Subsections 166 and 167 shall apply *mutatis mutandis*.

165.4. Any change in the ownership of a trade name shall be made with the transfer of the enterprise or part thereof identified by that name. The provisions of Subsections 149.2 to 149.4 shall apply *mutatis mutandis*.

Sec. 168.3. In particular, and without in any way limiting the scope of protection against unfair competition, the following shall be deemed guilty of unfair competition:

(a) Any person, who is selling his goods and gives them the general appearance of goods of another manufacturer or dealer, either as to the goods themselves or in the wrapping of the packages in which they are contained, or the devices or words thereon, or in any other feature of their appearance, which would be likely to influence purchasers to believe that the goods offered are those of a manufacturer or dealer, other than the actual manufacturer or dealer, or who otherwise clothes the goods with such appearance as shall deceive the public and defraud another of his legitimate trade, or any subsequent vendor of such goods or any agent of any vendor engaged in selling such goods with a like purpose;

(b) Any person who by any artifice, or device, or who employs any other means calculated to induce the false belief that such person is offering the services of another who has identified such services in the mind of the public; or

(c) Any person who shall make any false statement in the course of trade or who shall commit any other act contrary to good faith of a nature calculated to discredit the goods, business or services of another.

It must be emphasized, however, that the protection to a trademark or tradename under the aforementioned provisions hinges on a factual finding of the existence of confusing similarity between the trademark or tradename sought to be protected, and the other trademark or tradename.

Hence, the questions, does YALEX and TREE DEVICE resemble YALE such that confusion or deception is likely to occur? The marks are shown on the next page:



Opposer's trademark



Respondent-Applicant's mark

This Bureau finds that confusion or deception is unlikely to occur at this instance. An examination and comparison of the competing marks shows that both marks start with the letters Y, A, L, E. However, apart from the letters Y, A, L, and E, there are other essential features in the Respondent-Applicant's. Beside the eye-catching tree device, YALEX is written in upper case. The decisive factor is the effect of the letter "X" if placed after the letter "E", in YALE. Because of the letter "X", consumer's attention would not be drawn on the minute similarities that were noted but on the differences or dissimilarities of both marks that are glaring and striking to the eye and ring to the ears conferred on it visual and aural projection that would easily distinguish one from the other. YALEX is a two syllable word pronounced as YA-LEX, wherein the syllable "YA" is pronounced as "Ya" in "Yahoo." YALEX is thus, phonetically distinct from the single syllabic YALE which sound rhymes with "ail," "bail," "jail," among other words.

Moreover, in the Trademark Registry, the contents of which the Bureau can take cognizance of via judicial notice, there are several trademarks consisting of the word "YALE" or in pair with other word or device that are registered or applied for registration and these are the YALE trademarks generally under Classes 6, 7, 9, 10 and 12.

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

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

WHEREFORE, premises considered, the instant Opposition is hereby DISMISSED. Let the filewrapper of Trademark Application Serial No. 4-2008-000645 together with a copy of this Decision be returned to the Bureau of Trademarks (BOT) for information and appropriate action.

SO ORDERED.

Taguig City, 26 September 2014.



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