



Republic of the Philippines  
**COURT OF APPEALS**  
*Manila*

**Eleventh (11<sup>th</sup>) Division**

**TLA CORPORATION,  
TRAMAT MERCANTILE INC.  
AND GOOD HARVEST AGRI-  
MACHINERIES INC.,**

*Plaintiffs-Appellees,*

-versus-

**HONDA MOTOR COMPANY  
LTD. AND THE NATIONAL  
LIBRARY,**

*Defendants-Appellants.*

**CA-G.R. CV No. 98777**

**Members:**

**DICDICAN, I. P.**, Chairperson,  
**ELBINIAS, M. P.**, and  
**PAREDES, V. I. A., JJ.**

**Promulgated:**

August 5, 2014

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**DECISION**

***PAREDES, J.:***

**THE CASE**

THIS IS ON THE APPEAL filed by respondent-appellant Honda Motor Company Ltd. (*Honda*) assailing the Decision<sup>1</sup> dated January 27, 2012 of the Regional Trial Court (*RTC*), Branch 123, Caloocan City, in Civil Case No. C-20637. Also assailed is the Order<sup>2</sup> dated March 30, 2012, on Honda's motion for reconsideration.

<sup>1</sup> Record, vol. 8, pp. 134-144.

<sup>2</sup> Record, vol. 8, pp. 308-310.

**THE ANTECEDENTS**

On October 6, 2003, TLA Corporation (*TLA*), Trammat Mercantile, Inc. (*Tramat*), Good Harvest Agri-Machineries, Inc. (*Good Harvest*) and Don Bino Enterprises (*Don Bino*; collectively, *petitioners-appellees*) filed a petition<sup>3</sup> for *cancellation of copyright registrations, injunction and damages with prayer for preliminary injunction* against Honda and the National Library alleging, that petitioners-appellees are engaged in the business of importation, distribution and sale of various kinds of machinery, engines and equipment; that Honda has applied for and obtained Certificates of copyright registration and deposit for several models of a general purpose engine, to wit:

- a) GX 200 General Purpose Engine, registered and deposited on 11 August 2003 with Registration No. H-2003-272;
- b) GX 160 General Purpose Engine (1990 Model), registered and deposited on 4 July 2003 with Registration No. H-2003-274;
- c) GX 160 General Purpose Engine (1994 Model), registered and deposited on 4 July 2003 with Registration No. H-2003-275;
- d) GX 160 General Purpose Engine (2002 Thai Model), registered and deposited on 4 July 2003 with Registration No. H-2003-277;
- e) GX General Purpose Engine (1982 Base Model), registered and deposited on 4 July 2003 with Registration No. H-2003-273;
- f) GX 160 General Purpose Engine (2002 Model), registered and deposited on 4 July 2003 with Registration No. H-2003-276.

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<sup>3</sup> Record, vol. 1, pp. 9-20.

On July 25, 2003, Honda sent a demand letter to Tramat demanding that it cease and desist immediately from importing, assembling, selling, offering for sale, and/or displaying for sale **LAUNTOP** gasoline engines which Honda claims is similar to its copyrighted products. Honda threatened Tramat with infringement and unfair competition suits if the latter will not cease and desist from dealing with the said products. After some exchange of letters, Honda wrote Tramat on September 1, 2003 stating that it will commence appropriate legal action against the latter without any further demand.

On July 25, 2003, Don Bino also received a similar demand letter with respect to the **THREE STAR** brand, while TLA received a letter of the same import, dated September 19, 2003, with respect to engines bearing the **MOTOR STAR** and **RANGER** brands. Good Harvest, while it has not as yet received a demand letter from Honda Motor, expects to do so as it is engaged in the same business as the other petitioners-appellees.

The engine designs or models covered in Honda's copyrights are not literary and artistic works or works of applied art; therefore, these cannot be the subject of copyrights, and their registration must be cancelled.

Honda must be enjoined from commencing or continuing any act, or instituting any action, which will prevent or in any way disturb petitioners-appellees from importing, assembling, distributing, selling, offering for sale and/or displaying for sale all types of engines; it must also be enjoined from instituting any action for infringement, unfair

competition, or any violation of intellectual property rights, whether civil, criminal or administrative against petitioners-appellees, their agents, distributors, retailers and buyers; for compelling petitioners-appellees to litigate and incur expenses to protect their interests, Honda must be ordered to pay attorney's fees in the amount of Two Hundred Thousand Pesos (P200,000.00) plus expenses of litigation and judicial costs.

In its Answer<sup>4</sup>, Honda alleged that on July 20, 1982, one of its technical people namely, Tetsuo Nakamura, created the original ornamental industrial design for the base model of its line of general purpose engines. The principal features and distinguishing characteristics of the original ornamental industrial design of the 1982 Base Model of Honda's general purpose engines are as follows:

- a) The engine cylinder mounted on a crankcase has a slant of approximately 25° degrees with respect to the crankcase;
- b) The engine consists of a box-type air cleaner case and a box-type fuel tank having a lid mounted on the crankcase, a carburetor provided below the air cleaner, and a fan cover and recoil starter mounted on the front of the crankcase;
- c) The fuel tank, air cleaner and muffler protector form a rectangular shape, as a result, showing an overall appearance of compactness; and
- d) The muffler protector is disposed adjacent the air cleaner case with its width approximately of the same dimension with the air cleaner.

With slight modifications and improvements, Honda adopted the industrial design of its 1982 base model and launched various

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<sup>4</sup> Record, vol. 1, pp. 147-168.

versions of general purpose engines; among the modification and improvement of import on GX-160 and GX-200, is the color-coding of the main components – red for the fan cover and recoil starter, black for the air cleaner and the muffler protector, and white for the fuel tank. In the Philippines, Honda owns the copyrights for the original ornamental industrial designs of its general purpose engines.

In the exercise of its right as copyright owner, Honda sent petitioners-appellees letters demanding that they cease and desist from importing, assembling, distributing, selling, and/or offering for sale, general purpose engines using the copyrighted ornamental design of Honda.

In the Order<sup>5</sup> dated September 15, 2009, the RTC denied petitioners-appellees' prayer for the issuance of a preliminary injunction for sheer lack of merit. Petitioners-appellees' motion for reconsideration<sup>6</sup> was denied in the Order<sup>7</sup> dated December 9, 2009.

Mediation was not successful except for that involving Don Bino; hence, pre-trial<sup>8</sup> was held on October 11, 2010.

On December 13, 2010, Don Bino and Honda submitted a joint motion for judgment on the Compromise Agreement<sup>9</sup>; and, on February 23, 2011, (partial) Judgment<sup>10</sup> based on the compromise agreement was rendered.

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<sup>5</sup> Record, vol. 4, pp. 218-224.

<sup>6</sup> Record, vol. 4, pp. 225-237.

<sup>7</sup> Record, vol. 4, pp. 311-312.

<sup>8</sup> Order dated October 11, 2010, record, vol. 5, pp. 251-253.

<sup>9</sup> Record, vol. 5, pp. 268-269.

<sup>10</sup> Record, vol. 6, pp. 14-16.

Petitioners-appellees presented, as lone witness, David Ong (*Ong*), vice president and general manager of Tramat, who testified<sup>11</sup> to reiterate the allegations in the petition, in his judicial affidavit dated October 27, 2003, supplemental judicial affidavit dated October 30, 2003, and his testimony at the hearing of the application for the issuance of a preliminary injunction.

For its part, Honda presented Erwin Estrada (*Estrada*) and Atty. Jose Jesus Disini, Jr. (*Atty. Disini*).

Estrada testified<sup>12</sup> that the general purpose engines under the brands Launtop, Ranger and Motorstar are identical and have similar trade configurations with the general purpose engines of Honda. In fact, the major visible parts of these engines are interchangeable.

Atty. Disini, qualified as an expert witness, adopted his Judicial Affidavit<sup>13</sup> and testimony<sup>14</sup> during the preliminary injunction where he stated that in his view, the works covered by Honda's Certificates of copyright registration are entitled to copyright protection; that regardless of the utilitarian nature of the object, the design itself is protected. One must think of the general purpose engines, on some level, as works of art, whilst some aspects of the engine's design are utilitarian and are dictated by some scientific process, other aspects

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<sup>11</sup> TSN, December 13, 2010, Transcript of Stenographic Notes, vol. 2; TSN, January 24, 2011, Transcript of Stenographic Notes, vol. 2.

<sup>12</sup> TSN, April 29, 2011, Transcript of Stenographic Notes, vol. 2; TSN, August 22, 2011, Transcript of Stenographic Notes, vol. 2.

<sup>13</sup> Record, vol. 7, pp. 324-329.

<sup>14</sup> TSN, September 1, 2008, Transcript of Stenographic Notes, Vol. 2; TSN, September 15, 2008, Transcript of Stenographic Notes, vol. 2; TSN, September 22, 2008, Transcript of Stenographic Notes, vol. 2; TSN, November 24, 2008, Transcript of Stenographic Notes, vol. 2.

are purely artistic, an example of which is the choice of color for the engines. Petitioners-appellees' general purpose engines infringe on the copyrighted industrial design of Honda's general purpose engines.

Honda adopted the testimonies of Reinerio Regaspi<sup>15</sup> and Atty. Florencio Sioson<sup>16</sup> adduced at the hearing on the application for preliminary injunction, in support of their claim that they have a valid copyright over the general purpose engines and that petitioners-appellees committed copyright infringement against Honda.

Thereafter, the parties submitted<sup>17</sup> their respective memorandum. On January 27, 2012, the RTC rendered the assailed Decision,<sup>18</sup> the dispositive portion of which reads:

WHEREFORE, being meritorious, the instant petition is hereby granted. Respondent National Library is directed to cancel the following copyright registrations issued to respondent Honda, to wit: Registration No. H-2003-273, Registration No. H-2003-274, Registration No. H-2003-275, Registration No. H-2003-277, Registration No. H-2003-276 and Registration No. H-2003-372.

Respondent Honda is permanently enjoined from commencing or continuing any act, or instituting any action which will prevent or in any way disturb petitioners, their agents, distributors, retailers and

<sup>15</sup> TSN, September 6, 2006, Transcript of Stenographic Notes, vol. 1; TSN, December 6, 2006, Transcript of Stenographic Notes, vol. 1; TSN, January 31, 2007, Transcript of Stenographic Notes, vol. 1; TSN, July 30, 2007, Transcript of Stenographic Notes, vol. 1; TSN, August 13, 2007, Transcript of Stenographic Notes, vol. 1; TSN, August 28, 2007, Transcript of Stenographic Notes, vol. 1.

<sup>16</sup> TSN, November 11, 2003, Transcript of Stenographic Notes, vol. 1; TSN, November 18, 2003, Transcript of Stenographic Notes, vol. 1.

<sup>17</sup> Petitioners-appellees' Memorandum, record, vol. 8, pp. 80-92. Respondent-appellant's Memorandum, record, vol. 8, pp. 93-119. Respondent-appellant's Supplemental Memorandum, record, vol. 8, pp. 122-128.

<sup>18</sup> Record, vol. 8, pp. 134-144.

buyers from importing, assembling, distributing, selling, offering for sale and/or displaying for sale all types of engines.

Respondent Honda is hereby ordered to pay attorney's fees and litigation expenses in the sum of Two Hundred Thousand (P200,000.00) plus cost.

SO ORDERED<sup>19</sup>.

Honda filed a motion for reconsideration<sup>20</sup> that was partially granted by the RTC in the Order<sup>21</sup> dated March 30, 2012, thereby modifying the dispositive portion of the decision to read, thus:

Accordingly, the decision dated January 27, 2012 rendered by this court partially (*sic*) is hereby reconsidered so that the dispositive portion thereof shall read as follows:

“WHEREFORE, being meritorious, the instant petition is hereby granted. Respondent National Library is directed to cancel the following copyright registrations issued to respondent Honda, to wit: Registration No. H-2003-273, Registration No. H-2003-274, Registration No. H-2003-275, Registration No. H-2003-277, Registration No. H-2003-276 and Registration No. H-2003-372.

Respondent Honda is permanently enjoined from commencing or continuing any act, or instituting any action which will prevent or in any way disturb petitioners, their agents, distributors, retailers and buyers from importing, assembling, distributing, selling, offering for sale and/or displaying for sale all types of engines similar to the respondent's

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<sup>19</sup> Record, vol. 8, pp. 143-144.

<sup>20</sup> Record, vol. 8, pp. 186-217.

<sup>21</sup> Record, vol. 8, pp. 308-310.



general purpose engines subject matter of the case.

Respondent Honda is hereby ordered to pay attorney's fees and litigation expenses in the sum of Two Hundred Thousand (P200,000.00) plus cost.

Unsatisfied, Honda filed<sup>22</sup> an appeal Notice of Appeal.

Here, Honda raises the following assignment of errors:

I

THE LOWER COURT ERRED IN RULING THAT THE DESIGNS OF THE GENERAL PURPOSE ENGINES OF RESPONDENT-APPELLANT HONDA ARE NOT COPYRIGHTABLE AND ARE PROPER SUBJECT OF PATENT BASED ON THE SPECIFICATIONS ATTACHED TO THE COPYRIGHT APPLICATIONS.

II.

THE LOWER COURT ERRED IN APPLYING THE CASE OF CHING V. SALINAS, ET AL. (G.R. NO. 161295, JUNE 29, 2005). THIS CASE IS INAPPLICABLE BECAUSE RESPONDENT-APPELLANT HONDA'S COPYRIGHTED GENERAL PURPOSE ENGINES ARE NOT CLAIMED AS UTILITY MODELS, NOR ARE THEY SPARE PARTS.

III.

THE LOWER COURT ERRED IN APPLYING THE CASE OF PEARL & DEAN (PHIL.) INC. V. SHOEMART INC. (G.R. NO. 148222, AUGUST 15, 2003) BECAUSE THE COPYRIGHT CLASSIFICATION OF RESPONDENT-APPELLANT HONDA'S GENERAL PURPOSE ENGINES IS "H" FOR ORIGINAL ORNAMENTAL DESIGNS FOR ARTICLES OF MANUFACTURE AND NOT FOR "O" FOR PRINTS, PICTORIALS, ILLUSTRATIONS, ETC.

IV.

THE LOWER COURT ERRED IN DECIDING IN FAVOR OF THE PETITIONERS DESPITE

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<sup>22</sup> Notice of appeal, record, vol. 8, p. 311.

PETITIONERS NOT PRESENTING SUFFICIENT EVIDENCE REQUIRED FOR THE CANCELLATION OF THE COPYRIGHT REGISTRATIONS OF RESPONDENT-APPELLANT HONDA.

V.

THE LOWER COURT ERRED IN AWARDING ATTORNEY'S FEES AND LITIGATION EXPENSES IN THE AMOUNT OF 200,000.00 PESOS.

VI.

THE LOWER COURT ERRED IN GRANTING PERMANENT INJUNCTION AGAINST RESPONDENT-APPELLANT HONDA EVEN IF THE LATTER HAS VALID COPYRIGHT REGISTRATIONS.

VII.

THE LOWER COURT ERRED IN DECIDING IN FAVOR OF PETITIONERS-APPELLEES T.L.A. CORPORATION AND GOOD HARVEST AGRI-MACHINERIES INC. DESPITE THEIR FAILURE TO PRESENT COMPETENT EVIDENCE TO PROVE THEIR CASE.<sup>23</sup>

### **ISSUES**

In essence, the issues for resolution, are: (1) whether or not the designs of Honda's general purpose engines are copyrightable; and (2) whether or not petitioners-appellees are entitled to the award of attorney's fees and litigation expenses.

### **THE COURT'S RULING**

***The appeal has no merit.***

Copyright, in the strict sense of the term, is purely a statutory right. Being a mere statutory grant, the rights are limited to what the

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<sup>23</sup> *Rollo*, pp. 86-87.

statute confers. It may be obtained and enjoyed only with respect to the subjects and by the persons, and on terms and conditions specified in the statute. Accordingly, it can cover only the works falling within the statutory enumeration or description<sup>24</sup>. The scope of a copyright is confined to literary and artistic works which are original intellectual creations in the literary and artistic domain protected from the moment of their creation.<sup>25</sup>

Honda argues<sup>26</sup> that the real issue in the instant case is not whether the general purpose engines themselves are copyrightable but whether or not the designs of the general purpose engines are copyrightable. It claims<sup>27</sup> that the copyright is covered by Section 172 (h) of the Intellectual Property Code (*IP Code*), which provides:

Sec. 172. Literary and Artistic Works. -

172.1. Literary and artistic works, hereinafter referred to as “works”, are original intellectual creations in the literary and artistic domain protected from the moment of their creation and shall include in particular:

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**(h) Original ornamental design or models for articles of manufacture, whether or not registrable as an industrial design, and other works of applied art. (*Emphasis supplied*)**

Honda posits<sup>28</sup> that the copyrighted designs are ornamental and decorative only to general purpose engines. General purpose engines can perform its function under different shapes and

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<sup>24</sup> *Pearl & Dean Phil (Inc) vs. Shoemart*, GR No. 148222, August 15, 2003.

<sup>25</sup> *Kho vs. Court of Appeals*, GR No. 115758, March 19, 2002.

<sup>26</sup> *Rollo*, p. 105.

<sup>27</sup> *Rollo*, p. 106.

<sup>28</sup> *Rollo*, p. 107.

configurations as can be seen in the designs of Honda's genuine competitors, such as: Yamaha, Robin, Briggs & Stratton and Mitsubishi.

To be copyrightable, the artistic or aesthetic features of the article must be separable from utilitarian aspects of the article. In the case of **Ching vs. Salinas**<sup>29</sup>, the Supreme Court elucidated thus:

It bears stressing that the focus of copyright is the usefulness of the artistic design, and not its marketability. The central inquiry is whether the article is a work of art. **Works for applied art include all original pictorials, graphics, and sculptural works that are intended to be or have been embodied in useful article** regardless of factors such as mass production, commercial exploitation, and the potential availability of design patent protection.

As gleaned from the description of the models and their objectives, these articles are useful articles which are defined as one having an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. Indeed, while works of applied art, original intellectual, literary and artistic works are copyrightable, **useful articles and works of industrial design are not. A useful article may be copyrightable only if and only to the extent that such design incorporates pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of the utilitarian aspects of the article.**

We agree with the contention of the petitioner (citing Section 171.10 of R.A. No. 8293), that the author's intellectual creation, regardless of whether it is a creation with utilitarian functions or incorporated in a useful article produced on an industrial scale, is protected by copyright law. However, the law refers to

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<sup>29</sup> *Ching vs. Salinas*, GR No. 161295, June 29, 2005.

a "work of applied art which is an artistic creation." **It bears stressing that there is no copyright protection for works of applied art or industrial design which have aesthetic or artistic features that cannot be identified separately from the utilitarian aspects of the article.** Functional components of useful articles, no matter how artistically designed, have generally been denied copyright protection unless they are separable from the useful article.<sup>30</sup> (*Emphasis ours*)

Based on the foregoing, to be copyrightable, the design of a useful article must incorporate pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of the utilitarian aspects of the article. Contrary to Honda's claim, it is the design which must be capable of existing independently from the article itself and not the opposite. The design must be able to stand on its own. Hence, the artistic application of the colors red, black and white on the major components of the general purpose engines do not make the engine design capable of copyright.

Honda insists that the RTC erred in ruling that the specifications in the applications for copyright showed that the general purpose engines of Honda are proper subject of patent and are not literary or artistic works. The specifications in the applications merely describe the original or unique appearance of Honda's general purpose engine.<sup>31</sup>

In its Decision, the RTC held that Honda's general purpose engines lack the decorative quality or value that characterize

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<sup>30</sup> *Ching vs. Salinas*, GR No. 161295, June 29, 2005.

<sup>31</sup> *Rollo*, p. 113.

authentic works of applied art. They are not artistic creations with incidental utilitarian functions or artistic works incorporated in a useful article<sup>32</sup>. **We agree.**

According to Honda, the specifications in the applications do not constitute any invention which can be considered as technical solution to a problem in any field of human activity, nor do the specifications indicate the functions of the general purpose engines.

Original ornamental design, models for articles of manufacture and other works of applied art must belong to the literary and artistic domain. Thus, at the outset, it must be established that there be an artistic aspect of the article to be copyrighted. **However, in the instant case, there is none.** While it is true that an industrial design can still be a subject of copyright, it does not mean that every industrial design is copyrightable. It is still necessary that the design belongs to the literary or artistic domain.

Honda claims<sup>33</sup> that the RTC misapplied the **Ching**<sup>34</sup> case because, unlike in *Ching*, Honda never claimed that the general purpose engines are utility models and has even submitted evidence that the color combination and the unique configuration or compact shape of the engines comprise the aesthetic element of said engine which is not functional.

However, the mere fact that Honda never claimed that the general purpose engines are utility models does not mean that they are not utility models.

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<sup>32</sup> Record, vol. 8, p. 141.

<sup>33</sup> *Rollo*, p. 127-128.

<sup>34</sup> GR No. 161295, June 29, 2005.

In the **Ching case**, the Supreme Court, in rejecting that the Leaf Spring Eye Bushing for automobile can be considered as ornamental design, explained:

But, as gleaned from the specifications appended to the application for a copyright certificate filed by the petitioner, the said Leaf Spring Eye Bushing for Automobile is merely a utility model described as comprising a generally cylindrical body having a co-axial bore that is centrally located and provided with a perpendicular flange on one of its ends and a cylindrical metal jacket surrounding the peripheral walls of said body, with the bushing made of plastic that is either polyvinyl chloride or polypropylene. Likewise, the Vehicle Bearing Cushion is illustrated as a bearing cushion comprising a generally semi-circular body having a central hole to secure a conventional bearing and a plurality of ridges provided therefore, with said cushion bearing being made of the same plastic materials. Plainly, these are not literary or artistic works. They are not intellectual creations in the literary and artistic domain, or works of applied art. They are certainly not ornamental designs or one having decorative quality or value.

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Being plain automotive spare parts that must conform to the original structural design of the components they seek to replace, the Leaf Spring Eye Bushing and Vehicle Bearing Cushion are not ornamental. **They lack the decorative quality or value that must characterize authentic works of applied art. They are not even artistic creations with incidental utilitarian functions or works incorporated in a useful article...** (*Boldface supplied*)

In the instant case, the specifications appended to the applications for a copyright certificate filed by Honda, which, for

purposes of the appeal, only the one referring to GX 160 General Purpose Engine (1990) is quoted, are as follows:

#### SPECIFICATION

Title: GX 160 GENERAL PURPOSE ENGINE (1990 Model)

#### Description of the Drawings:

Figure 1 is a front view of the GX 160 General Purpose Engine showing an engine cylinder mounted on a crankcase with a slant of approximately 25° degrees with respect to the crankcase. The engine consists of a box-type air cleaner case and a box-type fuel tank having a circular lid mounted on the crankcase, a carburetor provided below the air cleaner, and a fan cover and recoil starter mounted on the front of the crankcase.

Figure 2 is a rear view of the engine showing the engine cylinder with a slant of approximately 25° degrees with respect to the crankcase and a box-type muffler protector having a plurality of spaced apart slits formed on the outer circular surface of the engine cylinder.

Figure 3 is a left side view of the engine showing the muffler protector on the engine disposed adjacent the air cleaner case with its width approximately of the same dimension with the air cleaner. Figure 3 further shows the output axis, the fan cover, the engine head cover and recoil starter.

Figure 4 is a right side view of the engine.

Figure 5 is a top plan view of the engine. The shape composed of the fuel tank, the air cleaner and the muffler protector approximately forms a rectangular. As a result, the engine shows an overall appearance of compactness.



Figure 6 is the bottom view of the engine.

Figures 7 and 8 show front oblique perspective views of the engine from the left and right side directions thereof.

Figures 9 and 10 show rear oblique perspective views of the engine from the left and right side directions thereof, showing the compact engine with a low external form.

The main components of the engine are color-coded wherein, the fan cover and the recoil starter are red, the air cleaner case and muffler protector are black and the fuel tank is white.

CLAIM:

The industrial design for GX-160 GENERAL PURPOSE ENGINE (1990 Model) substantially as shown and described.<sup>35</sup>

Similar to **Ching case**, the specifications merely describe the appearance of the general purpose engines. Contrary to the claim of Honda, there is no decorative quality or value on the engines. Neither do We find any artistic creation with incidental utilitarian functions nor works incorporated in a useful article. The mere fact that the parts of the engine are color-coded does not automatically make it an artistic creation.

Honda claims<sup>36</sup> that the case of **Pearl & Dean vs. Shoemart**<sup>37</sup> was misapplied since the classification in the technical drawings in this case and in the *Pearl & Dean* case, are different, *i.e.* in this case,

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<sup>35</sup> Record, vol. 7, pp. 15-16.

<sup>36</sup> *Rollo*, p. 132-133.

<sup>37</sup> GR No. 148222, August 15, 2003.

the copyright extended to Honda's general purpose engines is under Section 172.1 (h) of the IP Code, while in *Pearl & Dean*, the technical drawings were classified under paragraph (o) of the then Intellectual Property Decree.

Honda's argument misses the *ratio decidendi* of *Pearl & Dean*. The difference in classification is merely superficial. This case is clearly within the *Pearl & Dean* case in that "the protection of the copyright extends only to the description or expression of the object and not to the object itself. It does not prevent one from using the drawings to construct the object portrayed in the drawing." In fine the copyright extends only to the plans and drawings, but not to the object and structure themselves.

In view of the foregoing discussion, finding that the general purpose engine itself is incapable of being the subject of a copyright, the RTC's issuance of the permanent injunction is only proper.

Anent the award of attorney's fees, litigation expenses and costs, We deem it proper to delete the same. An award of attorney's fees has always been the exception rather than the rule<sup>38</sup>. Even when a claimant is compelled to litigate with third persons or to incur expenses to protect his rights, attorney's fees may still be withheld where no sufficient showing of bad faith could be reflected in a party's persistence in a suit other than an erroneous conviction of the righteousness of his cause<sup>39</sup>. There is no showing that, in

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<sup>38</sup> *National Power Corporation vs. Heirs of Macabangkit Sangkay*, GR No. 165828, August 24, 2011.

<sup>39</sup> *National Power Corporation vs. Heirs of Macabangkit Sangkay*, GR No. 165828, August 24, 2011.

sending the cease and desist letters to petitioners-appellees, Honda was motivated by bad faith; it was only trying to protect its own interest since it truly believed that its general purpose engines were protected from infringement under its copyright registrations.

As to the other issues raised by Honda, We find it unnecessary to resolve the same for patent lack of merit to require consideration.

**WHEREFORE**, premises considered, the Decision dated January 27, 2012, and the subsequent Order dated March 30, 2012 of the Regional Trial Court (RTC), Branch 123, Caloocan City, in Civil Case No. C-20637, are **AFFIRMED with MODIFICATION** in that the award of attorney's fees, expenses of litigation and costs is **DELETED**.

**SO ORDERED.**

**VICTORIA ISABEL A. PAREDES**  
*Associate Justice*

WE CONCUR:

**ISAIAS P. DICDICAN**  
*Associate Justice*

**MICHAEL P. ELBINIAS**  
*Associate Justice*

**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

**ISAIAS P. DICDICAN**  
*Associate Justice*  
Chairperson, Eleventh Division