



THE GILLETTE COMPANY,
Opposer,

-versus-

JOHN ALLAN CHAN,
Respondent-Applicant.

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IPC No. 14-2013-00491
Opposition to:
Appln No. 4-2013-5868
Date Filed: 23 May 2013
TM: "GLIDE"

X-----X

NOTICE OF DECISION

CESAR C. CRUZ AND PARTNERS
Counsel for the Opposer
3001 Ayala Life-FGU Center
6811 Ayala Avenue, Makati City

JOHN ALLAN CHAN
Respondent-Applicant
30 Devera Street
S. F. D. M. Quezon City

GREETINGS:

Please be informed that Decision No. 2015 - 22 dated March 09, 2015 (copy enclosed) was promulgated in the above entitled case.

Taguig City, March 09, 2015.

For the Director:

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



THE GILLETTE COMPANY,
Opposer,

-versus-

JOHN ALLAN CHAN,
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X ----- X

IPC No. 14-2013-00491

Opposition to Trademark
Application No. 4-2013-5868
Date Issued: 23 May 2013

Trademark: **"GLIDE"**

Decision No. 2015- 22

DECISION

The Gillette Company¹ ("Opposer") filed an opposition to Trademark Application Serial No. 4-2013-5868. The contested application, filed by John Allan Chan² ("Respondent-Applicant"), covers the mark "GLIDE" for use on "*razors – disposable razors, system razors*" and "*medical razors*" all under Classes 08 and 10, respectively, of the International Classification of Goods.³

The Opposer claims to be the owner of the marks "PROGLIDE", "FUSION PROGLIDE" and "ULTRAGLIDE", which it registered in the Philippines and has extensively marketed and promoted. It avers that the Respondent-Applicant's filing of its application for the mark "GLIDE" is an attempt to trade unfairly on the goodwill, reputation and awareness of its own mark. It asserts that a mere perusal of the Respondent-Applicant's mark will illustrate a poor attempt of reproducing its own registered marks, clearly showing intent to imitate the same. It states that considering that its mark all contain the word "GLIDE" and that they are used for identical products, the two are aurally and conceptually similar and will indubitably cause confusion amongst Filipino customers and cause a false business relationship and/or association to its detriment.

In support of its Opposition, the Opposer submitted the affidavit of Taea M. Rosnell⁴ and its annexes.

This Bureau issued a Notice to Answer and served a copy thereof upon the Respondent-Applicant on 31 March 2014. The Respondent-Applicant, however, did not file an Answer. Accordingly, the Hearing Officer issued on 27 June 2014

¹ A corporation organized and existing under the laws of the Commonwealth of Massachusetts, United States of America, with principal address at One Gillette Park, Boston, Massachusetts, 02127, United States of America.

² With address at 30 Devera Strett, S.F.D.M, Quezon 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.

⁴ Marked as Exhibit "B".

The issue to be resolved is whether Respondent-Applicant's applied mark "GLIDE" should be allowed registration.

Prefatorily, 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.⁵

Records reveal that at the time Respondent-Applicant filed its application for registration of the contested mark on 23 May 2013, the Opposer already has existing registrations for the marks "ULTRAGLIDE" and "PROGLIDE" under Certificates of Registration No. 4-2011-006991, 4-2012, 004861 and 4-2012-004862 issued on 24 February 2012, 02 August 2012 and 28 June 2012, respectively.

But are the contending marks, as hereafter reproduced, confusingly similar?

Opposer's marks

ULTRAGLIDE PROGLIDE

Respondent-Applicant's mark



It can be readily observed that the Opposer's trademarks incorporate the word "GLIDE" in conjunction with another word. The same word is the prevalent feature of the Respondent-Applicant's mark. While the presentations of this common word are different, it will not eradicate the probability of confusion and/or deception on the purchasing public. The term "GLIDE", although an ordinary English

⁵ Pribhdas J. Mirpuri vs. Court of Appeals, G.R. No. 114508, 19 November 1999.

word, is not descriptive of razor products and hence, considered distinctive. As the Supreme Court held in **Acoje Mining Co., Inc. vs. The Director of Patents**⁶:

"In the language of Justice J. B. L. Reyes, who spoke for the Court in American Wire & Cable Co. v. Director of Patents: 'It is clear from the above-quoted provision that the determinative factor in a contest involving registration of trade mark is not whether the challenging mark would actually cause confusion or deception of the purchasers but whether the use of such mark would likely cause confusion or mistake on the part of the buying public. xxx'"

Also, that the Respondent-Applicant's mark encloses the word "GLIDE" in a rectangular-shaped box is of no moment. 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 purchasers as to cause him to purchase the one supposing it to be the other.⁷

Moreover, the competing marks pertain to closely related goods, i.e. razor products. Thus, it is highly probable that the purchasers would be led to believe that Respondent-Applicant's mark is a mere variation of Opposer's mark. Withal, the protection of trademarks as intellectual property is intended not only to preserve the goodwill and reputation of the business established on the goods bearing the mark through actual use over a period of time, but also to safeguard the public as consumers against confusion on these goods.⁸

Succinctly, the likelihood of confusion would not extend not only as to the purchaser's perception of the goods but likewise on its origin. 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."⁹

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

⁶ G.R. No. L-28744, 29 April 1971.

⁷ Societe des Produits Nestle, S.A. vs. Court of Appeals, GR No. 112012, 04 April 2001.

⁸ Skechers, USA, Inc. vs. Inter Pacific Industrial Trading Corp., G.R. No. 164321, 23 March 2011.

⁹ Societe des Produits Nestle, S.A. vs. Dy, G.R. No. 1772276, 08 August 2010.

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.¹⁰ Based on the above discussion, the Respondent-Applicant's trademark fell short in meeting this function. The latter was given ample opportunity to defend his trademark application but Respondent-Applicant failed to do so.

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.¹¹

WHEREFORE, premises considered, the instant opposition is hereby **SUSTAINED**. Let the filewrapper of Trademark Application Serial No. 4-2013-5868 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 09 March 2015.


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

¹⁰ Pribhdas J. Mirpuri vs. Court of Appeals, G.R. No. 114508, 19 November 1999.

¹¹ Great White Shark Enterprises vs. Danilo M. Caralde, Jr., G.R. No. 192294, 21 November 2012.