



KENSONIC, INC.,
Petitioner,

-versus-

CRISTINA CHING CHUA,
Respondent-Registrant.

X-----X

} **IPC No. 14-2014-00207**
}
} **Petition for Cancellation:**
}
} **Registration No. 4-2010-002478**
}
} **Date Issued: November 18, 2010**
}
} **TM: "STARCROWN"**

NOTICE OF DECISION

LAW FIRM OF REYES RARA & ASSOCIATES

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GREETINGS:

Please be informed that Decision No. 2015 - 204 dated September 28, 2015 (copy enclosed) was promulgated in the above entitled case.

Taguig City, September 28, 2015.

For the Director:

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



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IPC No. 14-2014-00207

Petition for Cancellation
Registration No. 4-2010-002478
Date Issued: 18 November 2010

Trademark: **"STARCROWN"**

Decision No. 2015- 204

DECISION

Kensonic, Inc.¹ ("Petitioner") filed a petition to cancel Trademark Registration No. 4-2010-002478. The registration issued to Cristina Ching Chua² ("Respondent-Registrant"), covers the mark "STARCROWN" for use on *"blender, washing machine", "television, DVD player, amplifier, speaker, flat iron", "electric fan, oven toaster, electric airpot, electric stove, gas stove, microwave oven, rechargeable lantern, kettle", "table, chair, cabinets and plasticwares; namely, furniture made of plastic"* and *"jug, plates, spoon, fork, basin, pot, dish organizer, glasswares, plate, tumbler, pitcher"* under Classes 07, 09, 11, 20 and 21, respectively, of the International Classification of Goods³.

The Petitioner maintains that it is engaged in the manufacture, sale and distribution of electric products and appliances, among other things. It claims to have used its "CROWN" trademark since 1991 through its predecessor, Audio Crown Enterprises. It avers that since its incorporation in 1994, it has been using the marks "CROWN & Device", "CROWN & Logo" and "CROWN PROFESSIONAL CHOICE & Logo", which it has registered with the Intellectual Property Office Philippines (IPOP HL). It alleges that its products are sold in major appliance and/or department stores and have long been featured and advertised in various printed and online publications. The Petitioner thus contends that the Respondent-Applicant's mark "STARCROWN" is confusingly similar to its registered "CROWN" marks, both of which are similarly used for goods in Classes 07, 09 and 11.

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

1. certified machine copy of its Amended Articles of Incorporation;

¹ A corporation organized under the laws of the Philippines, with address at Lot 3, T.S. Sarino Subdivision, Real St., Pulang-Lupa, Las Pinas, Philippines.

² An individual with address at Lot 3, Block 4, Phase 2, Little Tikes, 162 Ipil Street, Sterling Industrial Park, Iba, Meycauayan, Bulacan.

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.

2. copy of the Department of Trade and Industry (DTI) business name registration issued to Audio Crown Enterprises;
3. copies of invoices issued to Audio Crown Enterprises;
4. certified machine copy of its General Information Sheet (GIS);
5. copies of its product brochures;
6. certified true copies of its registration certificates;
7. copies of invoices for "CROWN" products;
8. printouts from its websites;
9. copies of some of the printed and online publications featuring its "CROWN" products;
10. printout from the IPOPHL database showing Registration No. 4-2010-0002478;
11. copies of its Declaration of Actual Use (DAU);
12. affidavit of Kristoffer K. Chang, its General Manager.⁴

The Respondent-Registrant filed her Verified Answer on 14 August 2014 alleging that it adopted "STARCROWN" precisely to distinguish its product from that of other manufacturers including the Petitioner. She asserts that her mark is not confusingly similar with the Petitioner's although they contain the word "CROWN" as they are combined with another word and/or objects. She stresses that the word "CROWN" is a common word and is used by not less than sixteen (16) other persons and/or entities as trademarks.

The Respondent-Registrant's evidence consists the following:

1. her affidavit;
2. printout of Certificate of Registration No. 4-2010-0002478;
3. copy of her application for "STARCROWN & REPRESENTATION OF A CROWN";
4. list of "CROWN" marks registered in favor of other persons and/or entities;
5. printout of "CROWN" marks registered before and after Opposer was issued its registration;
6. certified true copy of Petitioner's "CROWN & Device" and "CROWN THE PROFESSIONAL CHOICE & Logo";
7. DAU for her mark with attachments; and
8. pictures of the "STARCROWN" trademark being used.⁵

Pursuant to Office Order No. 154, s. 2010, the Hearing Officer referred the case to mediation. The parties, however, refused to mediate. Accordingly, the Hearing Officer conducted a preliminary conference and the same was terminated on

⁴ Marked as Exhibit "B" to "O", inclusive.

⁵ Marked as Exhibit "1" to "8".

16 June 2015. Thereafter, the parties submitted their respective position papers and the case is deemed submitted for decision.

Essentially, the issue to be resolved is whether Registration No. 4-2010-002478 should be cancelled.

Section 123.1 (d) of Republic Act No. 8293, also known as the Intellectual Property Code of the Philippine ("IP Code"), provides that:

"Section 123.1.A mark cannot be registered if it:

x x x

(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; x x x"

Records reveal that Certificate of Registration No. 4-2010-002478 for "STARCROWN" was issued to Respondent-Registrant on 05 March 2010. On the other hand, the Petitioner also has valid and existing registrations for its "CROWN" marks Certificates of Registration Nos. 4-2014-004644, 4-2007-011904, 4-2008-00610 and 4-20009608 issued on 03 July 2014, 10 March 2008, 13 October 2008 and 05 April 2008, respectively.

But are the competing marks, as shown below, confusingly similar?



Petitioner's Mark

STARCROWN

Respondent-Registrant's mark

The only similarity between the competing marks is the use of the word "CROWN". The word "CROWN" in the Petitioner's mark is preceded by a round-shaped device with two diamond-shaped objects inside while that of the Respondent-Applicant's with the word "STAR". Overall, they are different in presentation, pronunciation and impression such that despite of their similar appropriation of "CROWN", there is no likelihood of confusion and/or deception that may be caused to the consumers.

Moreover, the use of the word "CROWN" as a trademark or as a part of a mark has not been exclusive to the Opposer's. The Trademark Registry of this

Office, which this Bureau may take judicial notice, has registered various marks appropriating the word "CROWN", either alone or accompanied by other words and/or devices, also for goods under Classes 07, 09, 11. The mark "CROWN" alone is also registered under Certificates of Registration Nos. 4-2007-005851, 4-1999-009753, 058116, 4-2013-006016 and 4-2012-5681 issued respectively to Geo Parts Sales, Inc., Carrier Commercial Refrigeration, Inc., Antonio K. Go, Kelly Yu Chua and Wilson T. Ang. Other registered marks that appropriate the word "CROWN" include "CROWN & CROWN" under Certificate of Registration No. 4-2011-6518, "ROLEX + CROWN DEVICE" under Certificate of Registration No. 4-1992-82291 and "DORMA WITH CROWN" under Certificate of Registration No. 051243 issued to Antonio K. Go, Rolex Promotions SA and Dorma Deutschland GMBH, respectively. Some of these marks were issued registration even before the Opposer's.

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.⁶ The Bureau finds the Respondent-Registrant's trademark to have substantially met this requirement.

WHEREFORE, premises considered, the instant petition for cancellation is hereby **DISMISSED**. Let the filewrapper of Trademark Registration No. 4-2010-002478 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 28 September 2015.


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

⁶ Pribhdas J. Mirpuri vs. Court of Appeals, G.R. No. 114508, 19 November 1999.