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| CHOKE MAHACHAI BEVERAGE<br>CO., LTD.,<br><i>Opposer,</i> | } | IPC No. 14-2012-00532                        |
|  | } |  |
| - versus -   | } | Opposition to :                              |
|  | } |  |
| ALBERT TAN,<br><i>Respondent-Applicant.</i>              | } | Appln. No. 4-2012-002499                     |
|  | } | Date Filed: 29 February 2012                 |
|  | } | Trademark: KOKOZO AND JAPANESE<br>CHARACTERS |
| x-----x  | } | Order No. 2015- 205 (p)                      |

### ORDER

CHOKE MAHACHAI BEVERAGE CO., LTD., ("Opposer") filed on 21 January 2013 an opposition to Trademark Application Serial No. 4-2012-002499. The application, filed by ALBERT TAN ("Respondent-Applicant"), covers the mark "KOKOZO AND JAPANESE CHARACTERS" for use on goods under Class 32.

Pursuant to the Regulations on Inter Partes Proceedings, this Bureau issued a Notice to Answer and served a copy thereof to Respondent-Applicant on 04 February 2013. The Respondent-Applicant filed its Answer on 06 May 2013.

On 29 September 2015, this Bureau received a Letter from Opposer addressed to the Bureau of Trademarks requesting for refusal of the subject trademark for non-filing of Declaration of Actual Use (DAU). Attached to the Opposer's Letter is a Certification issued by the Bureau of Trademarks on 08 September 2015.

Article 124.2 of Republic Act No. 8293, otherwise known as the Intellectual Property Code of the Philippines ("IP Code") states:

"124.2. The applicant or the registrant shall file a declaration of actual use of the mark with evidence to that effect, as prescribed by the Regulations within three (3) years from the filing of the application. Otherwise, the application shall be refused or the mark shall be removed from the Register by the Director."

Furthermore, Rule 204 of the Rules & Regulations on Trademarks, Service Marks, Trade Names and Marked or Stamped Containers ("Trademark IRR") provides:

"RULE 204. *Declaration of Actual Use.* - The Office will not require any proof of use in commerce in the processing of trademark applications. However, without need of any notice from the Office, all applicants or registrants shall file a declaration of actual use of the mark with evidence to that effect within three years, without possibility of extension, from the filing date of the application. Otherwise, the application shall be refused or the mark shall be removed from the register by the Director motu proprio."

Accordingly, with the refusal of the application for registration of the mark KOKOZO AND JAPANESE CHARACTERS, there is no more reason nor basis to proceed with this case.

**WHEREFORE**, premises considered, the instant opposition case is hereby **DISMISSED**.

Let the filewrapper of Trademark Registration No. 4-2012-002499 be returned, together with a copy of this Order to the Bureau of Trademarks (BOT) for information and appropriate action.

**SO ORDERED.**

Taguig City, 22 October 2015.



**Atty. NATHANIEL S. AREVALO**  
Director IV, Bureau of Legal Affairs

**Copy furnished:**

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