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| TYSON FOODS INC., | } | IPC No. 14-2012-00251 |
| <i>Opposer,</i> | } | Opposition to : |
| | } | |
| - versus - | } | Appln. No. 4-2012-000991 |
| | } | Date Filed: 26 January 2012 |
| CERTINO YAE, | } | Trademark: TYSON |
| <i>Respondent-Applicant.</i> | } | |
| x-----x | | Order No. 2015- 204 |

ORDER

TYSON FOODS INC., ("Opposer") filed on 23 July 2012 an opposition to Trademark Application Serial No. 4-2012-000991. The application, filed by CERTINO YAE ("Respondent-Applicant"), covers the mark "TYSON" for use on goods under Class 25.

Pursuant to the Regulations on Inter Partes Proceedings, this Bureau issued a Notice to Answer and served a copy thereof to Respondent-Applicant on 13 August 2012. The Respondent-Applicant failed to file its Answer.

On 03 August 2015, the Opposer filed a Manifestation stating among others that Respondent-Applicant failed to file a 3rd year Declaration of Actual Use (DAU) for the trademark TYSON. On 07 September 2015, this Bureau issued Order No. 2015-1294 directing the Opposer to submit a certification issued by the Bureau of Trademarks that Respondent -Applicant failed to file a DAU. On 01 October 2015, the Opposer filed a Compliance.

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 TYSON, 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. 4-2012-000991 be returned, together with a copy of this Order to the Bureau of Trademarks (BOT) for information and appropriate action.

SO ORDERED.

Taguig City, 23 October 2015.



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

Copy furnished:

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