



**KENSONIC, INC.,**  
Opposer,

**-versus-**

**CRISTINA CHING CHUA,**  
Respondent-Applicant.

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} **IPC No. 14-2014-00140**  
} Opposition to:  
} Appln. No. 4-2014-000150  
} Date Filed: 06 January 2014  
} **TM: "STARCROWN"**

**NOTICE OF DECISION**

**LAW FIRM OF REYES RARA & ASSOCIATES**

Counsel for the Opposer  
Ground Floor, W Tower  
39<sup>th</sup> Street, Bonifacio Global City  
Taguig City

**ATTY. ESTRELLITA BELTRAN-ABELARDO**

Counsel for Respondent- Applicant  
Block 22, Lot 13 Singkil Street  
Lagro Subdivision , Novaliches  
Quezon City

**GREETINGS:**

Please be informed that Decision No. 2016 - 51 dated February 18, 2016 (copy enclosed) was promulgated in the above entitled case.

Taguig City, February 18, 2016.

For the Director:

  
**Atty. EDWIN DANILLO A. DATING**  
Director III  
Bureau of Legal Affairs

**KENSONIC, INC.,**  
Opposer,

-versus-

**CRISTINA CHING CHUA,**  
Respondent-Applicant.

IPC No. 14-2014-00140  
Opposition to Trademark  
Application No. 4-2014-000150  
Date Filed: 06 January 2014  
Trademark: **"STARCROWN"**

X ----- X

Decision No. 2016- 51 \_\_\_\_\_

### DECISION

Kensonic, Inc.<sup>1</sup> ("Opposer") filed an opposition to Trademark Application Serial No. 4-2014-000150. The contested application, filed by Cristina Ching Chua<sup>2</sup> ("Respondent-Applicant"), covers the mark "STARCROWN" for use on "*blender, washing machine, television, led TV, DVD player, amplifier, speaker, flat iron, electric fan, oven toaster, electric pot, electric stove, gas stove, microwave oven, rechargeable lantern & flashlight, electric kettle, table, chair, cabinets and plasticwares; namely, furnitures 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 Goods<sup>3</sup>.

The Opposer 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 (IPOPHL). 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 Opposer 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;
2. copy of the Department of Trade and Industry (DTI) business name registration issued to Audio Crown Enterprises;

<sup>1</sup> 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.

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

<sup>3</sup> 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.

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. copies of its Declaration of Actual Use (DAU);
11. affidavit of Kristoffer K. Chang, its General Manager.<sup>4</sup>

The Respondent-Applicant 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 Opposer. She asserts that her mark is not confusingly similar with the Opposer's although they contain the word "CROWN" as they are combined with another word and different 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-Applicant's evidence consists the following:

1. her affidavit;
2. copy of Certificate of Registration No. 4-2010-0002478;
3. copy of her application for "STARCROWN & REPRESENTATION OF A CROWN";
4. summary of the registrations for "CROWN" marks shown un the IPOPHL Trademark Database;
5. printout of "CROWN" marks registered before and after Opposer was issued its registration;
6. date of registration of "CROWN" marks registered to different owners before and after the Opposer was issued its registration;
7. goods to which the "CROWN" marks are used by the different registered owners before and after the Opposer was issued its registration;
8. certified true copy of Certificate of Registration Nos. 4-2009-003699 and 4-2005-0070125 for "CROWN & Device" and "CROWN THE PROFESSIONAL CHOICE & Logo";
9. DAU for her mark with attachments; and
10. pictures of the "STARCROWN" trademark being used.<sup>5</sup>

Pursuant to Office Order No. 154, s. 2010, the Hearing Officer referred the case to mediation. The parties, however, refused to mediate. Accordingly, the

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<sup>4</sup> Marked as Exhibit "B" to "O", inclusive.

<sup>5</sup> Marked as Exhibit "1" to "8".



Hearing Officer conducted a preliminary conference and the same was terminated on 16 June 2015. Thereafter, the parties submitted their respective position papers and the case is deemed submitted for decision.

The issue to be resolved in this case is whether the Respondent-Applicant's trademark "STARCROWN" should be allowed.

Section 123.1 (d) of R.A. No. 8293, also known as the Intellectual Property Code of the Philippines ("IP Code"), provides that:

***"Section 123. Registrability. - 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 at the time the Respondent-Applicant filed her application for the mark "STARCROWN", the Opposer has valid and existing registrations for its "CROWN" marks issued as early as 10 March 2008.

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



*Opposer's Mark*



*Respondent-Applicant's mark*

The only similarity between the competing marks is the use of the word "CROWN". The word "CROWN" in the Opposer'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" below a figure of a crown. 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 06, 09, 11. These marks include "CROWN", "CROWN & CROWN", "ROLEX + CROWN DEVICE", "DORMA WITH CROWN" and "CROWN ICE CHEST & CROWN", among others, belonging to different proprietors. 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.<sup>6</sup> The Bureau finds the Respondent-Applicant's trademark to have substantially met this requirement.

**WHEREFORE**, premises considered, the instant opposition is hereby **DISMISSED**. Let the filewrapper of Trademark Application Serial No. 4-2014-000150 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

**SO ORDERED.**

Taguig City, 18 February 2016.

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

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