



FLUKE CORPORATION,
Opposer,

-versus-

FRENWAY PRODUCTS, INC.,
Respondent- Applicant.

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IPC No. 14-2013-00475
Opposition to:
Appln.Serial No. 4-2013-000235
Date Filed: 09 January 2013
TM: "AMPRO"

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NOTICE OF DECISION

VIRGILAW (Virgilio M. Del Rosario & Partners)
Counsel for Opposer
The Peak, Unit 602 L.P. Leviste St.
Salcedo Village, Makati City

ESCAÑO SARMIENTO & PARTNERS
Counsel for the Respondent- Applicant
Suite 1605 The Taipan Place
Emerald Avenue, Ortigas Center
Pasig City

GREETINGS:

Please be informed that Decision No. 2016 - 130 dated May 03, 2016 (copy enclosed) was promulgated in the above entitled case.

Taguig City, May 03, 2016.

For the Director:

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

FLUKE CORPORATION,

Opposer,

-versus-

FRENWAY PRODUCTS, INC.,

Respondent-Applicant.

IPC No. 14-2013-000475

Opposition to Trademark

Application No. 4-2013-000235

Date Filed: 09 January 2013

Trademark: "**AMPRO**"

X ----- X

Decision No. 2016- 130

DECISION

Fluke Corporation¹ ("Opposer") filed an opposition to Trademark Application Serial No. 4-2013-000235. The contested application, filed by Frenway Products, Inc.² (Respondent-Applicant), covers the mark "AMPRO" for use on "*abrading instruments [hand instruments]; adzes [tools]; augers [hand tools]; awls; axes; bits [hand tools]; bits [parts of hand tools]; blades for planes; blades [hand tools]; border shears; carpenters' augers; chisels; clamps for carpenters or coopers; crow bars; cutter bars; cutters; drill holders [hand tools]; drills; expanders [hand tools]; extension pieces for braces or screwtaps; files [tools]; fullers [hand tools]; garden tools, hand-operated; gimlets [hand tools]; gouges [hand tools]; grafting tools [hand tools]; grinding wheels [emery -]; grindstones [hand tools]; guns [hand tools]; guns, hand-operated, for the extrusion of mastics; hainault scythes; hammers [hand tools]; hand drills [hand tools]; hand pumps ; hand tools, hand-operated; hatchets; hoop cutters [hand tools]; jig-saws; knives; mallets [hand instruments]; nail drawers [hand tools]; nail extractors; nail nippers; nail punches; needle files; plane irons; planes; pliers; pruning knives; pruning scissors; pruning shears; pumps (hand -); punch pliers [hand tools]; punches [hand tools]; rakes [hand tools]; ratchets [hand tools] ; riveters [hand tools] ; riveting hammers [hand tools] ; saw blades [parts of hand tools]; saw holders; saw [hand tools]; scissors; scrapers [hand tools]; scraping tools [hand tools]; screwdrivers; secateurs; shears; spanners [hand tools]; spatulas [hand tools]; stone hammers; tap wrenches; trowels; trowels [gardening]; tube cutters [hand tools]; tube cutting instruments; vices ; wire stretchers [hand tools]; wrenches [hand tools]" under Class 08 of the International Classification of Goods³.*

The Opposer anchors its opposition on Section 123.1 subparagraphs (d), (e) and (g) of R.A. No. 8293, also known as the Intellectual Property Code of the Philippines ("IP Code"). According to the Opposer, its company is a global

¹ A corporation organized and existing under the laws of Spain with office address at 6920 Seaway boulevard, Everett, Washington 98203, USA.

² With address at 6F-6, No. 130, Sec. 2, Chung Hsiao E. Rd. Taipei City, Taiwan.

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.

corporation and market leader in the testing and measuring equipment and tools industry. It was originally founded sometime in the late 1940's and was then named Pyramid Instrument Company. In United States, it has used the mark "AMPROBE" as early as 08 October 1962 and was first applied for registration on 18 October 1965. In the Philippines, the said mark was first registered on 31 October 1968 under Registration No. 014325 for goods under Class 09. The mark "AMPROBE" also has registrations and/or pending applications in various countries. It maintains the website <http://www.amprobe.com/cgi-bin/pdc/site.cgi?fn+country> where information about its products, services and company can be seen by consumers all over the world. The Opposer's main contention is that the Respondent-Applicant's "AMPRO" mark should not be allowed registration for being confusingly similar to its allegedly well-known mark "AMPROBE".

In support of its opposition, the Opposer submitted the following as evidence:

1. printout of the Respondent-Applicant's application;
2. printout of the Opposer's registration of "AMPROBE";
3. representative samples of the Opposer's registration certificates;
4. various printouts of the web pages of its website;
5. certified copy of the Opposition and annexes in "Fluke Corporation vs. Frenway Products, Inc." docketed as IPC No. 14-2010-00044;
6. copy of Decision No. 2013-99 dated 23 May 2013.

This Bureau issued a Notice to Answer dated 10 February 2014 and served a copy thereof upon the Respondent-Applicant. The Respondent-Applicant, however, did not file an Answer. Accordingly, the Hearing Officer issued on 16 February 2014 Order No. 2014-641 declaring the Respondent-Applicant in default and the case submitted for decision.

The issue to be resolved in this case is whether the trademark "AMPRO" should be allowed registration.

Records show that in IPC Case No. 14-2010-00044 entitled "**Fluke Corporation vs. Frenway Products, Inc.**", this Bureau already rendered a decision⁴, the dispositive portion of which provides:

"WHEREFORE, the opposition is **SUSTAINED**. Consequently, Application bearing Serial No. 4-2007-013523 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED."

⁴ Decision No. 2013-93 dated 28 May 2013.

Thereafter, on 29 August 2013, the Entry of Judgment/Execution of Decision was issued stating:

"The Decision became final and executory on August 06, 2013 and accordingly, is hereby recorded in this Bureau's Book of Entries of Judgment.

IN VIEW THEREOF, the filewrapper of Trademark Application Serial No. 4-2007-013523, together with a copy hereof, is hereby returned to the Director, Bureau of Trademarks for appropriate action."

Noteworthy, IPC Case No. 14-2010-00044 similarly involves the same parties and mark "AMPRO", also applied for use on "*hand tools and implements (hand-operated) included in Class 8*", among others. This Bureau finds no cogent reason to deviate from the ruling of the said case.

WHEREFORE, premises considered, the instant opposition is hereby **SUSTAINED**. Let the filewrapper of Trademark Application Serial No. 4-2013-000235 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 03 MAY 2018


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