

**JOHN LLOYD CRUZ,**  
Opposer,

**-versus-**

**SIMON T. BOLIMA,**  
Respondent - Applicant.

x-----x

}  
} **IPC No. 14-2013-00239**  
} Opposition to:  
} Appln. Serial No. 4-2012-012851  
} Date Filed: 18 October 2012  
} **TM: "JOHN LLOYD"**

**NOTICE OF DECISION**

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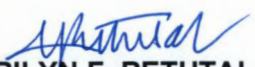
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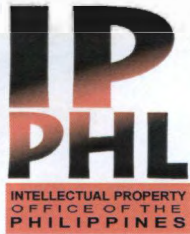
**GREETINGS:**

Please be informed that Decision No. 2016 - 149 dated May 18, 2016 (copy enclosed) was promulgated in the above entitled case.

Taguig City, May 18, 2016.

For the Director:

  
**MARILYN F. RETUTAL**  
IPRS IV  
Bureau of Legal Affairs



**JOHN LLOYD CRUZ,**  
Opposer,

-versus-

**SIMON T. BOLIMA,**  
Respondent-Applicant.

X ----- X

IPC No. 14-2013-00239

Opposition to:  
Appln. Serial No. 4-2012-12851  
Date Filed: 18 October 2012  
Trademark: **"JOHN LLOYD"**

Decision No. 2016- 149

### DECISION

John Lloyd Cruz<sup>1</sup> ("Opposer") filed an opposition to Trademark Application Serial No. 4-2012-12851. The contested application, filed by Simon T. Bolima.<sup>2</sup> ("Respondent-Applicant"), covers the mark "JOHN LLOYD" for use on "shoes" under Class 25 of the International Classification of Goods<sup>3</sup>.

The Opposer anchors his opposition on Section 123.1 (c) and (g) of R.A. No. 8293, also known as the Intellectual Property Code of the Philippines ("IP Code"). According to the Opposer, he was born on 24 June 1983 with full name John Lloyd Espidol Cruz and has joined show business when he was fifteen (15) years old. His talents brought him fame and gained him numerous Best Actor and Box Office King awards. He likewise endorsed numerous products and services. His name, voice and face are constantly on television, movies, billboards, magazines, newspapers, radio, internet and various forms of media. He believes that as a result, the combination name "JOHN LLOYD" is automatically connected to him at least in the Philippines.

The Opposer fears that the Respondent-Applicant would like to create a false impression that he either owns the company trading under the name "JOHN LLOYD" or that he endorses the products. He asserts that he is not familiar and has no control over the quality of the latter's products and should the same be of mediocre quality, he will be subject to suits or bad publicity. He moreover laments that the Respondent-Applicant's use of "JOHN LLOYD" may prevent other companies from getting him as an endorser for similar products due to the confusion that may arise. He claims that while "JOHN" and "LLOYD" may be common separately, together the name have become synonymous to him. In support of his opposition, he submitted the following as evidence:<sup>4</sup>

<sup>1</sup> A Filipino citizen, of legal age and may be served with processes through counsel at MSALAW, Unit 812 Taipan Place, F. Ortigas Avenue, Ortigas Center, Pasig City.

<sup>2</sup> With known address at 47-A Morato Street, San Francisco Del Monte, Quezon City.

<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 concluded in 1957.

<sup>4</sup> Marked as Exhibits "A" to "G".

Republic of the Philippines  
INTELLECTUAL PROPERTY OFFICE

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1. copies of his Certificate of Live Birth and Passport;
2. copy of the official poster of the movie "It Takes A Man and a Woman"; and
3. copies of official posters of several of his endorsements.

The Respondent-Applicant filed his Answer on 23 September 2013 denying that "JOHN LLOYD" refers to a particular a particular living individual and that the said mark does not refer to the Opposer. He avers that the Opposer did not register the said mark and that the latter is not identified with shoes sold locally or abroad. The Respondent-Applicant's evidence consists of the following:<sup>5</sup>

1. copy of Trademark Application Serial NNo. 4-2012-012851;
2. copy of the Notice of Allowance; and
3. his affidavit dated 21 September 2013.

The issue to be resolved is whether the Respondent-Applicant's mark "JOHN LLOYD" should be allowed registration.

Pursuant to Office Order No. 154, s. 2010, the Hearing Officer referred the case to mediation. This Bureau's Alternative Dispute Resolution Services submitted a report that the parties refused to mediate. Accordingly, the Hearing Officer conducted and terminated the preliminary conference on 10 March 2014 wherein the parties were directed to submit their respective position papers. After which, the case is deemed submitted for decision.

Prefatorily, 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>

Trademark registration is conferred on applications made validly in accordance with the provisions of law.<sup>7</sup> Section 123.1 (a) and (c) of R.A. No. 8293, also known as the Intellectual Property Code of the Philippines ("IP Code"), provides that a mark cannot be registered if it:

***"(a) Consists of immoral, deceptive or scandalous matter, or matter which may disparage or falsely suggest a connection with persons, living***

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<sup>5</sup> Marked as Exhibits "1" to "3".

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

<sup>7</sup> Section 122, IP Code.

***or dead, institutions, beliefs, or national symbols, or bring them into contempt or disrepute;***

***x x x***

***(c) Consists of a name, portrait or signature identifying a particular living individual except by his written consent, or the name, signature, or portrait of a deceased President of the Philippines, during the life of his widow, if any, except by written consent of the widow; x x x"***

In order for a mark to falsely suggest a connection with persons, it must be shown that the mark is almost the same with the name or identity used by another person; the mark would be known as such and obviously pertains to that person; the person is not connected with the activities performed by the applicant of the mark; and the fame of the person is such that, when the mark is used with the applicant's goods or services, a connection with the person or institution would be presumed.<sup>8</sup> In this case, the Respondent-Applicant's mark is "JOHN LLOYD" while the Opposer's name is "JOHN LLOYD CRUZ". This notwithstanding, the two are still confusingly similar. The prohibition of the law does not have to be a full name but also applies to first names, surnames, shortened names, pseudonyms, stage names, titles or nicknames, if there is evidence that the name identifies a specific living individual who is so well known that such connection would be assumed.<sup>9</sup>

Although the Opposer has not shown that he is engaged in the shoe business, such fact is insignificant because records show that "JOHN LLOYD" clearly relates to the Opposer's screen name and birth name. The Opposer has been publicly known as "JOHN LLOYD" or "JOHN LLOYD CRUZ" since he joined the entertainment industry. Since the applied mark consists of a name identifying the Opposer, the latter's consent is necessary to register the same. It is highly probable for the consumers to associate the "JOHN LLOYD" products with the Opposer. Thus, the registration of the subject mark will likely result to confusion as to the origin and/or ownership thereof.

Noteworthy, the Respondent-Applicant did not offer any explanation how it came up with the "JOHN LLOYD" mark. It is inconceivable for him to come up with the "JOHN LLOYD" mark without having been inspired by or motivated by an intention to take advantage of the Opposer's media coverage. Name recall alone will save the Respondent-Applicant cost of advertising and promotion. Of course, as in all other cases of colorable imitations, the unanswered riddle is why, of the millions of terms and combinations of letters and designs available, the appellee had to choose those so closely similar to another's trademark if there was no intent to take advantage of the goodwill generated by the other mark.<sup>10</sup>

<sup>8</sup> 1203.03 of the United States Patent Office, Trademark Manual and Examining Procedure.

<sup>9</sup> 1206.01, Ibid.

<sup>10</sup> American Wire & Cable Company vs. Director of Patents, G.R. No. L-26557, 18 February 1970.

**WHEREFORE**, premises considered, the instant opposition is hereby **SUSTAINED**. Let the filewrapper of Trademark Application Serial No. 4-2012-012851 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

**SO ORDERED.**

Taguig City, 18 MAY 2016

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