

CHANEL SARL,

Opposer,

-versus-

FUTURE STATE, INC.,

Respondent-Applicant.

IPC No. 14-2011-00318

Opposition to:

Application No. 4-2010-13783

Date Filed: 17 December 2010

Trademark: "N5"

x-----x

NOTICE OF DECISION

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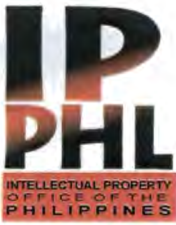
Counsel for Respondent-Applicant
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39 Plaza Drive, Rockwell Center,
Makati City 1210, Metro Manila

GREETINGS:

Please be informed that Decision No. 2016- 295 dated 25 August 2016 (copy enclosed) was promulgated in the above entitled case.

Taguig City, 25 August 2016.


Atty. JOSEPHINE C. ALON
Adjudication Officer
Bureau of Legal Affairs



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Decision No. 2016- 295

X-----X

DECISION

CHANEL SARL¹ ("Opposer") filed an opposition to Trademark Application Serial No. 4-2010-13783. The application, filed by Future State, Inc.² ("Respondent-Applicant"), covers the mark "N5" for use on "*fragrances*" under Class 03 of the International Classification of Goods and Services.³

The Opposer alleges:

x x x

"The grounds for the opposition to the registration of the trademark are as follows:

"1. Opposer is the registered owner in the Philippines of the No. 5 mark for 'parfum, eau de parfum, eau de toilette, deodorant, bath gel, body cream, body lotion, bath powder and soap' in Class 03 under Registration No. 066507 issued by the IPO.

"2. Opposer, its predecessors in business and affiliated Chanel companies (collectively 'Chanel') has been using the No. 5 mark since 1921 and continues to use it around the world. Through long and uninterrupted use and extensive advertising, the No. 5 mark has become inextricably linked with Chanel throughout the world and in the Philippines, particularly in relation to fragrance and perfumed products in Class 03. The No. 5 mark was first registered in the Philippines by Opposer on February 24, 1958, has been in use in the Philippines for over 50 years and long before Respondent-Applicant appropriated the mark N5 for 'fragrances' also in Class 03.

"3. Respondent-Applicant's mark N5 so resembles Opposer's No. 5 mark as to be likely, when applied to or used in connection with goods in Class 03, to cause confusion, mistake and deception on the part of the purchasing public by misleading them into thinking that Respondent-Applicant's goods either come from the Opposer or are sponsored or licensed by it.

¹A corporation organized and existing under and by virtue of the laws of Switzerland, with business address at Burgstrasse 26, CH-8750 Glaris, Switzerland.

²With address at #2214 Tolentino St., Pasay City, Philippines.

³The Nice Classification is a classification of goods and services for the purpose of registering trademark and service marks, based on a 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 Purposes of the Registration of Marks concluded in 1957.



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INTELLECTUAL PROPERTY OFFICE**

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"4. When looked at side by side in their entirety, Respondent-Applicant's mark N5 differs from Opposer's No. 5 mark only through omission of the letter 'o'. 'N' and 'No.' are both commonly used as an abbreviation of 'Number' and Respondent-Applicant's mark N5 therefore creates a similar, if not identical, overall impression to that of Opposer's No. 5 mark.

"5. Moreover, the goods in connection with which the N5 mark is sought to be registered are identical, similar to or closely related with the goods for which Opposer's No. 5 mark is used and registered. Specifically, Opposer's No. 5 mark is historically derived from the creation of the celebrated perfume which was first launched in France by Chanel in 1921 and continues to be used on perfumery products. Respondent-Applicant seeks to register the N5 mark for 'fragrances'.

"6. The registration and use by Respondent-Applicant of the N5 mark in relation to the goods in Class 03 will diminish the distinctiveness and dilute the goodwill of Opposer's No. 5 mark. The No. 5 mark has been recognized as well-known by courts and intellectual property offices in numerous countries; the No. 5 mark is in fact one of the world's best known trademarks and there is no question that no. 5 is exclusively and inextricably associated with Chanel with respect to fragrances and related products in Class 03.

"7. Given the recognition and prior use of Opposer's No. 5 mark worldwide and in the Philippines, there is no clear reason for Respondent-Applicant to have adopted the N5 mark for its goods, other than to trade on the goodwill and worldwide recognition of the No. 5 mark, thereby misleading the public into believing that its identical or similar goods bearing the N5 mark originate from, or are licensed or sponsored by Opposer, which has been identified in the trade and by consumers as the exclusive source of Class 03 goods, including fragrances and related products, bearing the No. 5 mark.

"8. Moreover, the approval of Respondent-Applicant's N5 mark is based on the misrepresentation that it is the originator, true owner and first user of the trademark, which was in fact merely derived from Opposer's No. 5 mark. Opposer is the first user of No. 5 in Philippine commerce and elsewhere, having utilized the same in the Philippines for over half a century. Respondent-Applicant's use of a confusingly similar mark as the brand name for its goods is likely to cause consumer confusion as to the origin of said goods.

"9. Respondent-Applicant's use of the N5 mark infringes upon Opposer's exclusive right to use the No. 5 mark, which is a well-known trademark protected under Sections 147 and 123.1 (d), (e) and (f) of the Intellectual Property Code ('IP Code'), Article 6bis of the Paris Convention and Article 16 of the Agreement on Trade Related Aspects of Intellectual Property Rights to which the Philippines and Switzerland adhere.

"To support this opposition, Opposer will prove and rely upon, among other facts, the following:



"1. Opposer adopted and has been using the No. 5 mark for goods in Class 03 for decades in many countries around the world, long before Respondent-Applicant's adoption of the confusingly similar trademark N5. Opposer has been commercially using the No. 5 mark in the Philippines for over 50 years, long before the filing of the application for the registration of the N5 mark by Respondent-Applicant in the year 2010.

"2. Opposer is the first user and rightful owner of the No. 5 mark. Chanel has also used and also registered or applied for the registration of the No. 5 mark in over 145 countries worldwide. There is no reason for Respondent-Applicant to adopt the N5 mark, which is nearly identical to Opposer's No. 5 mark, other than to trade on the renown of No. 5.

"3. Respondent-Applicant has appropriated the N5 mark for the purpose of capitalizing upon the renown of Opposer's No. 5 mark by misleading the public into believing that Respondent-Applicant's goods bearing the N5 mark are provided by, originate from, or are licensed or sponsored by Opposer.

"4. The registration and use of a confusingly similar trademark by the Respondent-Applicant in relation to Class 03 goods will tend to deceive and/or confuse purchasers into believing that the Respondent-Applicant's goods are provided by, emanate from or are under the sponsorship of Opposer and damage Opposer's interests for the following reasons:

"i. When comparing No. 5 and N5 side by side, the similarities of the prevalent features of the marks are significant. The omission of the letter 'o' in N5 does nothing to distinguish the overall commercial impression of the marks.

"ii. The goods in connection with which the N5 mark is sought to be registered are identical, similar to or closely related with the goods for which Opposer's No. 5 mark is used and registered.

"iii. Respondent-Applicant's unauthorized appropriation and use of the N5 mark will dilute Opposer's reputation and goodwill among consumers because No. 5 has become exclusively associated with Chanel for goods in Class 03, including fragrances and related products.

"iv. Respondent-Applicant has applied to register the N5 mark for its Class 03 goods as self-promoting trademark to gain public acceptability for its products through its association with Opposer's popular No. 5 mark, which has attained international renown for products of the finest quality.

"v. Respondent-Applicant intends to trade, and is trading on, Opposer's goodwill.

"5. The registration and use of a confusingly similar trademark by Respondent-Applicant in relation to fragrances will diminish the distinctiveness and dilute the goodwill of Opposer's No. 5 mark.



The Opposer's evidence consists of the Notice of Opposition; the Affidavit of Catherine Louise Cannon, Director of Chanel SARL; and the Special Power of Attorney issued in favor of Sycip Salazar Hernandez & Gatmaitan.⁴

This Bureau issued a Notice to Answer and sent a copy thereof upon Respondent-Applicant on 09 September 2011. The Respondent-Applicant filed their Answer on 09 December 2011 and avers the following:

x x x

"III

"AFFIRMATIVE DEFENSES
AND GROUNDS TO DENY THE OPPOSITION

"3.1 Opposer's attempt to eliminate respondent-applicant from the market through the instant Opposition cannot succeed. Opposer is abusing its status as an international giant to prejudice a Filipino merchant who has managed to obtain a significant foothold in the perfumery and fragrances market through its own sheer marketing and sales efforts.

"Opposer's irregular attempt to over-extend the protection of its 'No. 5' trademark is obvious and cannot be sanctioned.

"3.2 There is absolutely no confusing similarity between the 'N5' trademark of respondent-applicant and the 'No. 5' mark of opposer.

"3.3 Opposer's contention of confusing similarity is premised on an overall consideration of the marks or what jurisprudence has developed to be known as the 'Holistic Test.' In determining similarity and likelihood of confusion, the holistic test requires the court to consider the entirety of the marks as applied to the products, including the labels and packaging. Under the holistic test, a comparison of the words is not the only determinant factor.

"3.4 Opposer claims that when the two marks are viewed side-by-side in their entirety, respondent-applicant's 'N5' mark differs from opposer's 'No. 5' mark only through the omission of the letter 'O'. This is not entirely correct. For although both marks may refer to the numerical figure 5, the letter 'O' and period in opposer's trademark, precisely distinguishes respondent-applicant's 'N5' trademark from opposer's 'No. 5' mark. Side-by-side, as opposer suggests, the two marks are different:

x x x

"3.5 Even the label, packaging and bottle of the 'N5' product of respondent-applicant cannot be anymore different from the label, packaging and bottle of opposer's 'No. 5'. The backgrounds and surroundings, as to color, size and design are strikingly different from each other (x x x). Moreover, the 'N5' trademark of respondent-applicant

⁴Marked as Annexes "A" to "C", inclusive.

is presented in said label, packaging and bottle with indications of the product being that of respondent-applicant, such as the presence of respondent-applicant's 'HUMAN' trademark, for which respondent-applicant and Suyen have several registrations (x x x). Respondent-applicant's advertising and promo materials for its 'N5' product (x x x) always indicate its origin by bearing the mark 'HUMAN'.

"3.6 On the other hand, opposer's products always carry the mark 'Chanel' in combination with 'No. 5'. Even opposer's numerous advertisements, promotion materials and articles regarding its 'No. 5' products (x x x) conspicuously uses the trademark 'Chanel' when referring to 'No. 5'. Thus, it is unquestionable that opposer never used or uses 'No. 5' on its own but always in combination with the trademark 'Chanel.'

"3.7 If very similarly-looking and sounding trademarks such as 'ALACTA' and 'ALASKA', 'BIOFERIN' and 'BUFFERIN', and 'STYLISTIC MR. LEE' and 'MR. LEE' were held to be different from each other x x x

"3.8 The ordinary purchaser 'must be thought of as having, and credited with, at least a modicum of intelligence to be able to see the obvious differences between the two trademarks in question.' It is submitted that an ordinary purchaser, so regarded with such 'modicum of intelligence', would not and cannot easily mistake the 'N5' product of respondent-applicant to be the products of opposer or originating from the opposer. 'N5' is simply very different from 'No. 5'.

"3.9 Opposer cannot assume that purchasers of the 'N5' product would be easily misled into thinking that the 'N5' product of Future State are those of opposer, especially considering the manner in which the said products are presented in the market.

"3.10 As stated in the Ong Affidavit, Future State has not even received inquiries or comments from purchasers regarding the association of the respondent-applicant's 'N5' product with opposer's 'No. 5' product and trademark.

"3.11 Even under the Test of Dominancy, which focuses on the similarity of the prevalent features of the competing trademarks that might cause confusion or deception, the subject marks are still not confusingly similar to each other.

"3.12 The dominant or prevalent feature of opposer's mark is its clear and express reference to the number five (5). This is not the dominant feature in respondent-applicant's trademark. In fact, 'N5' does not automatically suggest that it refers to the number 5.

"3.13 Indeed, opposer does not have and cannot claim exclusive rights to make reference to the number 5, especially when the only similarity with the competing mark is its reference to the number five (5). Opposer has no registration, and opposer has not presented any registration of the number '5'. Opposer cannot in fact claim exclusive right to use '5'. In the Philippines alone, the number 5 is used and has been

incorporated in many registered trademarks such as 'ANGEL-5,' 'ACTI 5,' '5 GOLD,' 'DONE-5,' 'CALCIGARD-5,' 'LEPTOFERM-5,' 'AMLO-5,' 'ORACORT 5,' 'LABEL 5,' 'OXY 5' etc. Attached as Exhibit '13' are printouts of trademark registrations in the Philippines showing the foregoing registrations, taken from a search conducted under the website and using the search engine of this Honorable Office.

"3.14 In the instant case, confusion, whether confusion of goods or confusion of business or source, is very remote if not completely absent. There is absolutely no basis for the Opposition and no basis to deny the registration of the trademark 'N5' in favor of respondent-applicant.

"3.14.1 'No. 5' by Chanel and 'N5' by Future State are not sold in the same channels of trade as opposer would have this Honorable Office believe. As stated above, 'N5' is available exclusively in Future State-owned or franchised HUMAN stores, and in authorized retailers where 'No. 5' is not available. Meanwhile, 'No. 5' is distributed by Rustans Commercial Corporation (hereinafter 'Rustans') (xxx) in Rustans department stores, where none of Future State's products including 'N5' are available. Thus, there is not even an opportunity for purchasers to be misled or confused, contrary to the claim of opposer. Indeed, Future State has so identified its 'HUMAN' stores and products in the mind of the consuming public that no one, whether or not an ordinary purchaser, will go to a HUMAN store to buy anything other than HUMAN products, much less products of Chanel. Conversely, Rustans has also identified in the public the kind of products that are sold in its department stores that no one in his right mind will look for an 'N5' product in Rustans.

"3.14.2 'N5' is marketed and sold in body spray application and is available at the very affordable price of Php 249.00 at 50ml. Chanel No. 5, on the other hand, are sold in both bottle and spray application in eau de parfum and eau de toilette variations at the very expensive price. As advertised in opposer's own website www.chanel.com, a bottle of 'No. 5' parfum les grands extraits (7.5 fl. oz) costs a prohibitive \$1,800.00, or Php 78, 858.00. The other variants of 'No. 5' are priced at \$285.00(1 fl. oz) for its 'No. 5' parfum bottle; \$90.00 (3.4 fl. oz) for its eau de toilette bottle; and \$55.00 to \$64.00 (1.2 fl. oz) for its eau de toilette and eau de parfum spray, or between Php 2,409.55 to Php 12,485.85. Attached as Exhibit '14' are printouts of opposer's webpages showing the prices for its 'No. 5' products.

"Indeed, what are the chances of a consumer looking for an expensive Chanel No. 5 perfume or eau de toilette being deceived into buying a HUMAN N5 body spray? ZERO.

"3.14.3 Perfumes and body sprays are not your ordinary household items like catsup, soysauce or soap which are of minimal cost. As illustrated above, perfumes - especially those of Chanel - are not inexpensive. Accordingly, even the casual buyer is predisposed to be more cautious and discriminating in and would prefer to mull over his purchase. Confusion and deception, then, is less likely (x x x).

Ordinary purchasers of perfumes could never be confused 'N5' to be the same as 'No. 5' or that the former is manufactured by Chanel. More credit should be given to the 'ordinary purchaser.' The ordinary purchaser is not the 'completely unwary consumer' but is the 'ordinarily intelligent buyer' considering the type of product involved.'
(x x x)

"3.15 Based on the Exhibits attached to the Affidavit of Catherine Louise Cannon, 'No. 5' cannot be considered a well-known mark under Sec. 123.1 of the IP Code and Rule 102 of the IPO Rules and Regulations on Trademarks. Opposer's use of Section 123.1 (e) and (f) of the IP Code is wrong and unavailing. The said provisions require that the mark be 'considered by the competent authority of the Philippines to be well-known.' Future State is informed and thus hereby alleges that this Honorable Office has not declared the 'No. 5' trademark as a well-known trademark.

"3.16 In fact, it appears that opposer is using these proceedings as an avenue to obtain a declaration by this Honorable Office that 'No. 5' is a well-known trademark, even if it gains no victory against the 'N5' trademark.

"a) Considering that the 'No. 5' trademark is registered in the Philippines, opposer really did not need any well-known trademark argument. Indeed it cannot assert that it is well-known in these proceedings because, as stated above, at the time it filed the Opposition, and at present, the 'No. 5' trademark has not been 'considered by the competent authority in the Philippines to be well-known.'

"b) Since this Honorable Office has not adopted a system for declaring well-known trademarks, and has made such declaration only in Inter Partes proceedings, opposer decided to use the application of Future State to create an Inter Partes case where it may seek declaration of its 'No. 5' mark as well-known trademarks in the Philippines.

"3.17 This Honorable Office cannot and must not allow itself to be used especially in this case where there is actually no issue of confusing similarity of trademarks.

"3.18 In any event, opposer has not discharged the heavy burden of proving that 'No. 5' is a well-known trademark in the Philippines, under the following criteria set by the Supreme Court in La Chemiste Lacoste, S.A. vs. Hon. Oscar C. Fernandez and Gobindram Hermandas.

x x x

"3.19 Under Rule 102 of the Rules, the following factors must be considered in determining whether a mark is well-known.

x x x



"3.20 The Exhibits submitted by opposer are questionable and do not suffice to meet the above-listed factors or criteria of a well-known mark. Consider the following:

x x x

"3.21 In any event, whether or not 'No. 5' is a well-known trademark under Sec. 123.1 of the IP Code is immaterial. The fact is that 'N5' is not confusingly similar to 'No. 5' or related thereto.

"3.22 Future State did not adopt its 'N5' mark to ride on any goodwill of opposer's 'No. 5' trademark. As discussed above, 'N5' was derived from the Life Plan number based on the Human Numerology. This was specifically adopted by Future State in relation to its brand 'HUMAN'. Future State has exerted substantial efforts and has spend tremendous amounts for the promotion of its N SERIES including the fragrance bearing the mark 'N5' as its own products and certainly not as products of any other entity, or as products related to any perfume or fragrance products of entities. Future state's products are immensely popular on their own due to Future State's own efforts.

"Further, there is no confusing similarity between the marks so as to cause confusion of reputation and origin, especially since the goods bearing the 'N5' mark contain respondent-applicant's existing 'HUMAN' trademark. The same is true with respect to opposer's products. The 'No. 5' products always contain the word 'Chanel'.

"3.23 Respondent-applicant has offered and provided Filipinos with fragrances at very affordable prices. If Chanel wants this market too, it must compete before the Filipino consumers, not before this Honorable Office.

The Respondent-Applicant's evidence consists of the Affidavit of Future State's General Manager, Mr. Jude W. Ong; a copy of Certificate of Registration No. 4-2000-004504 for the "HUMAN" trademark; a list of derivative of "HUMAN" registrations; a list of foreign registrations for the mark "HUMAN" and other derivative marks; a list of Future State's personal care products bearing the HUMAN trademark; a copy of Trademark Application No. 4-2010-013783 for the mark "N5" filed by Future State on 17 December 2010; copies of the following applications: Trademark Application No. 4-2010-013781 for the mark "N1", Trademark Application No. 4-2010-013782 for the mark "N3" and Trademark Application No. 4-2010-013784 for the mark "N7", all filed on 17 December 2010; copy of Memorandum from the Ad and Promo Department of Future State; photocopies of ad replacements and press releases of Future State for the N SERIES including "N5"; printouts of HUMAN's webpages showing the fragrances from the N SERIES including "N5"; printouts of trademark registrations in the Philippines for the following: "ANGEL-5", "ACTI 5", "5 GOLD", "DONE-5", "CALCIGARD-5", "LEPTOFERM-5", "AMLO-5"

"ORACORT 5", "LABEL 5" and "OXY 5"; and printouts of opposer's webpages showing the prices for its "No. 5" products.⁵

On 07 May 2012, the Preliminary Conference was terminated and the parties were directed to file their respective position papers. Thereafter, the case was deemed submitted for resolution.

Should the Respondent-Applicant be allowed to register the trademark N5?

The Opposer anchors its opposition on Sections 123.1, paragraphs (d), (e) and (f), 147 of Republic Act No. 8293, also known as the Intellectual Property Code of the Philippines ("IP Code"), to wit:

Sec. 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;"
- (e) Is identical with, or confusingly similar to, or constitutes a translation of a mark which is considered by the competent authority of the Philippines to be well-known internationally and in the Philippines, whether or not it is registered here, as being already the mark of a person other than the applicant for registration, and used for identical or similar goods or services: *Provided*, That in determining whether a mark is well-known, account shall be taken of the knowledge of the relevant sector of the public, rather than of the public at large, including knowledge in the Philippines which has been obtained as a result of the promotion of the mark;
- (f) Is identical with, or confusingly similar to, or constitutes a translation of a mark considered well-known in accordance with the preceding paragraph, which is registered in the Philippines with respect to goods or service which are not similar to those with respect to which registration is applied for: *Provided*, That use of the mark in relation to those goods or services would indicate a connection between those goods or services, and the owner of the registered mark: *Provided* further, That the interests of the owner of the registered mark are likely to be damaged by such use;

Sec. 147.*Rights Conferred.* - 147.1. The owner of a registered mark shall have the exclusive right to prevent all third parties not having the owner's consent from using

⁵Marked as Exhibits "1" to "14", inclusive.

in the course of trade identical or similar signs or containers for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion. In case of the use, of an identical sign for identical goods or services, a likelihood of confusion shall be presumed.

147.2. The exclusive right of the owner of the well-known mark defined in Subsection 123.1 (e) which is registered in the Philippines, shall extend to goods and services which are not similar to those in respect of which the mark is registered: *Provided*, That use of that mark in relation to those goods or services would indicate a connection between those goods or services and the owner of the registered mark: *Provided further*, That the interests of the owner of the registered mark are likely to be damaged by such use.

Records show that at the time the Respondent-Applicant filed its trademark application on 17 December 2010, the Opposer has an existing trademark registration for the mark NO. 5 (Reg. No. 66507) issued on 19 November 1998. The registration covers "parfum, eau de parfum, eau de toilette, deodorant, bath gel, body cream, body lotion, bath powder and soap" in Class 03. This Bureau noticed that the goods covered by the Respondent-Applicant's trademark application is identical and/or confusingly similar to the Opposer's.

A comparison of the competing marks reproduced below:

N^o 5

Opposer's trademark

N5

Respondent-Applicant's mark

shows that except for the small letter "O", the marks are obviously identical and used on similar goods, particularly, fragrances. Thus, it is likely that the consumers will have the impression that these goods originate from a single source or origin. The confusion or mistake would subsist not only on the purchaser's perception of goods but on the origin thereof as held by the Supreme Court, to wit:

Callman notes two types of confusion. The first is the confusion of goods in which event the ordinary prudent purchaser would be induced to purchase one product in the belief that he was purchasing the other. In which case, defendant's goods are then bought as the plaintiff's and the poorer quality of the former reflects adversely on the plaintiff's reputation. The other is the confusion of business. Here, though the goods of the parties are different, the defendant's product is such as might reasonably be assumed to originate with the plaintiff and the public would then be deceived either into that belief or into belief that

there is some connection between the plaintiff and defendant which, in fact does not exist.⁶

It is emphasized that 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.⁷ This Bureau finds that the Respondent-Applicant's mark does not meet this function.

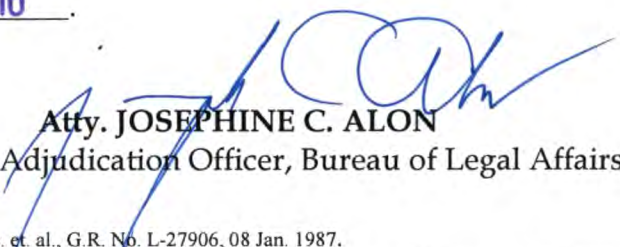
Succinctly, the field from which a person may select a trademark is practically unlimited. As in all other cases of colorable imitations, the unanswered riddle is why of the millions of terms and combinations of letters and designs available, the Respondent-Applicant had to come up with a mark identical or so closely similar to another's mark if there was no intent to take advantage of the goodwill generated by the other mark.⁸ In this regard, a trade name can also earn or generate goodwill.

The intellectual property system was established to recognize creativity and give incentives to innovations. Similarly, the trademark registration system seeks to reward entrepreneurs and individuals who through their own innovations were able to distinguish their goods or services by a visible sign that distinctly points out the origin and ownership of such goods or services.

WHEREFORE, premises considered, the instant Opposition to Trademark Application No. 4-2010-13783 is hereby SUSTAINED. Let the filewrapper of the subject trademark application be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, 25 AUG 2016


Atty. JOSEPHINE C. ALON
Adjudication Officer, Bureau of Legal Affairs

⁶ *Converse Rubber Corp. v. Universal Rubber Products, Inc. et. al.*, G.R. No. L-27906, 08 Jan. 1987.

⁷ *Pribhdas J. Mirpuri v. Court of Appeals*, G.R. No. 114508, 19 November 1999, citing *Eihepa v. Director of Patents, supra, Gabriel v. Perez*, 55 SCRA 406 (1974). See also Article 15, par. (1), Art. 16, par. (1), of the Trade Related Aspects of Intellectual Property (TRIPS Agreement).

⁸ *American Wire & Cable Company v. Director of Patents*, G.R. No. L-26557, 18 Feb. 1970.