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JAGUAR LAND ROVER LIMITED,
Opposer,

-versus-

QINGDAO QIANYOU INTERNATIONAL
TRADE CO., LTD.,
Respondent- Applicant.

}
} IPC No. 14-2015-00298
} Opposition to:
} Appln. Serial No. 4-2014-012926
} Date Filed: 17 October 2014
} TM: "WONDERLAND"
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X-----X

NOTICE OF DECISION

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5/10
10:57
CHEENEE VALERIO

GREETINGS:

Please be informed that Decision No. 2016 - 124 dated May 03, 2016 (copy enclosed) was promulgated in the above entitled case.

Taguig City, May 03, 2016.

For the Director:


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

JAGUAR LAND ROVER LIMITED,
Opposer,

-versus-

**QINGDAO QIANYOU INTERNATIONAL
TRADE CO., LTD.,**
Respondent-Applicant.

X ----- X

IPC No. 14-2015-00298

Opposition to:
Serial No. 4-2014-012926
Date Filed: 17 October 2014
Trademark: **"WONDERLAND"**

Decision No. 2016- 124

DECISION

Jaguar Land Rover Limited¹ ("Opposer") filed an opposition to Trademark Application Serial No. 4-2014-012926. The contested application, filed by Qingdao Qianyou International Trade Co., Ltd.² ("Respondent-Applicant"), covers the mark "WONDERLAND" for use on *"automobile wheels; automobile wheel hub; inner tubes for pneumatic tires [tyres]; cycle tires [tyres], tires for bicycles; casings for pneumatic tires [tyres]; spikes for tires [tyres]; treads for retreading tires [tyres]; pneumatic tires [tyres]; tires, solid, for vehicle wheels; vehicle wheel tires [tyres], patches (adhesive rubber) for repairing inner tubes; automobile tires [tyres]; inner tubes for bicycles, cycles; tubeless tires [tyres] for bicycles, cycles; airplane tires; repair outfits for inner tubes; non-skid devices for vehicle tires [tyres]"* under Class 12 of the International Classification of Goods³.

The Opposer alleges that it is the owner of the internationally well-known mark "LAND" by actual use in commerce since 30 April 1948 and prior registration worldwide. It claims to have extensively sold and promoted its products bearing the "LAND" trademark across the world. It thus contends that the registration of the Respondent-Applicant's mark "WONDERLAND" is contrary to Section 123.1 subparagraphs (d) and (f) of R.A. No. 8293, also known as the Intellectual Property Code of the Philippines. It asserts that the latter mark is confusingly similar to its own registered marks. In support of its Opposition, the Opposer submitted the affidavit of Amanda Jane Beaton, its Assistant Company Secretary.⁴

¹ A corporation duly organized and existing under and by virtue of the laws of England and Wales with principal address at Abbey Road, Whitley Coventry CV3 4LF, Coventry, United Kingdom.

² With office address at 12-2, District B, 3rd Floor of the 1st Section, No. 34 Shnaghai Road, Free Trade Zone, Qingdao.

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.

⁴ Marked as Exhibit "B".



A Notice to Answer was issued and served upon the Respondent-Applicant on 17 September 2015. The latter, however, did not file an Answer. Thus, on 08 January 2016, the Hearing Officer issued Order No. 2016-116 declaring the Respondent-Applicant in default and the case submitted for decision.

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

Section 123.1 (d) and (f) 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

(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 services 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;

x x x"

The records show that at the time the Respondent-Applicant filed its trademark application, the Opposer already has valid and existing registrations for the marks "LAND ROVER" and "LAND ROVER LOGO" under Certificate of Registration Nos. 4-2006-012192 and 4-2006-012191 issued 02 July 2007 and 06 August 2007, respectively. The Opposer filed an application of the mark "LAND" on 15 August 2014, which eventually ripened to Certificate of Registration No. 4-2014-503608 issued on 10 September 2015.

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

LAND LAND ROVER



Opposer's marks

WONDERLAND

Respondent-Applicant's mark

A practical approach to the problem of similarity or dissimilarity is to go into the *whole* of the two trademarks pictured in their manner of display. Inspection should be undertaken from the viewpoint of a prospective buyer. The trademark complained of should be compared and contrasted with the purchaser's memory (not in juxtaposition) of the trademark said to be infringed. Some such factors as "sound; appearance; form, style, shape, size or format; color; ideas connoted by marks; the meaning, spelling, and pronunciation, of words used; and the setting in which the words appear" may be considered.⁵ Thus, confusion is likely between marks only if their over-all presentation, as to sound, appearance, or meaning, would make it possible for the consumers to believe that the goods or products, to which the marks are attached, emanate from the same source or are connected or associated with each other.

The competing marks similarly use the word "LAND". This, however, is not sufficient to conclude that confusion is likely to occur. The Opposer uses its mark with the word "LAND" alone or followed by the word "ROVER". On the other hand, the Respondent-Applicant's mark consists of the compound word "WONDERLAND". Visually and aurally, the marks are different. Also, they convey different meanings and connotations. The word "LAND" alone refers to "the solid part of the surface of the earth" or "a country or nation" while "WONDERLAND" means "an imaginary place of delicate beauty or magical charm".⁶ In view of these differences, the similarity in the use of the word "LAND" pale in significance.

⁵ Etepha A.G. vs. Director of Patents, G.R. No. L-20635, 31 March 1966.

⁶ Merriam-Webster Dictionary.

A handwritten signature in blue ink, appearing to be initials or a name, located in the bottom right corner of the page.

Moreover, the Trademark Registry of this Office reveals other registered trademarks involving vehicles and tires, also under Class 12, that appropriate the word "LAND". The marks "LAND CRUISER" and "KL – KING LAND" are registered under Certificates of Registration Nos. 029412 and 4-2014-007108 issued 22 May 1981 and 04 December 2014 to Toyota Jidosha Kabushiki Kaisha (Toyota Motors Corporation) and Susan Magalong Tan, respectively. Noteworthy, the mark "LAND CRUISER" was registered way before any of the Opposer's marks. Hence, similarity in this aspect alone is not enough to prevent a junior user registration of its mark provided that the later mark is endowed with other distinguishing features and characteristics such as that of the Respondent-Applicant's. Further noteworthy, the competing companies are engaged in vehicles and/or tires business and thus, their target market is discerning consumers knowledgeable of the properties involved as well as the companies they deal with making confusion, much more deception, improbable.

Finding no confusing similarity between the marks, there is no necessity for a determination whether the Opposer's mark is well-known.

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.⁷ In this case, the Respondent-Applicant's mark sufficiently met this function.

WHEREFORE, premises considered, the instant opposition is hereby **DISMISSED**. Let the filewrapper of Trademark Application Serial No. 4-2014-012926 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 2016


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

⁷ Pribhdas J. Mirpuri vs. Court of Appeals, G.R. No. 114508, 19 November 1999.