

DEWEY SDN. BDH.,
Petitioner,

-versus-

NICOLAS TAN,
Respondent-Registrant.

X-----X

IPC No. 14-2013-00230
Cancellation of:
Reg. No. 4-2003-011038
Date Issued: 19 March 2007

TM: KITCHENOMICS

NOTICE OF ORDER

ORTEGA, BACORRO, ODULIO, CALMA & CARBONELL

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NICOLAS TAN

Respondent- Registrant
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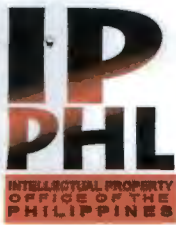
GREETINGS:

Please be informed that Order No. 2016 - 289 (D) dated 16 December 2016 (copy enclosed) was promulgated in the above entitled case.

Pursuant to Section 2, Rule 9 of the IPOPHL Memorandum Circular No. 16-007 series of 2016, any party may appeal the decision to the Director of the Bureau of Legal Affairs within ten (10) days after receipt of the decision together with the payment of applicable fees.

Taguig City, 16 December 2016.

MARILYN F. RETUTAL
IPRS IV
Bureau of Legal Affairs



DEWEY SDN. BDH.,	}	IPC No. 14-2013-00230
<i>Petitioner,</i>	}	Cancellation of:
	}	Reg. No. 4-2003-011038
- versus -	}	Date Issued: 19 March 2007
	}	TM: KITCHENOMICS
NICOLAS TAN,	}	
<i>Respondent-Registrant.</i>	}	
x-----x		Order No. 2016- 289 (D)

ORDER

DEWEY SDN. BDH. ("Petitioner") filed on 31 May 2013 a petition for cancellation of Trademark Registration No. 4-2003-011038. The registration issued on 19 March 2007 in favor of NICOLAS TAN ("Respondent-Registrant") covers the KITCHENOMICS for use on goods under Classes 08,11 and 21.

Pursuant to the Regulations on Inter Partes Proceedings, this Bureau issued a Notice to Answer and served a copy thereof to Respondent-Registrant on 15 July 2013. The Respondent-Registrant filed his Answer on 14 August 2013.

However, a check with the records of the Intellectual Property Office of the Philippines, in particular the Trademarks Registry, show that the subject mark KITCHENOMICS has been removed from Register due to non-filing of Declaration of Actual Use ("DAU").

Article 124.2 of Republic Act No. 8293, otherwise known as the Intellectual Property Code of the Philippines ("IP Code") states:

"124.2. The applicant or the registrant shall file a declaration of actual use of the mark with evidence to that effect, as prescribed by the Regulations within three (3) years from the filing of the application. Otherwise, the application shall be refused or the mark shall be removed from the Register by the Director."

Furthermore, Rule 204 of the Rules & Regulations on Trademarks, Service Marks, Trade Names and Marked or Stamped Containers ("Trademark IRR") provides:

"RULE 204. *Declaration of Actual Use.* - The Office will not require any proof of use in commerce in the processing of trademark applications. However, without need of any notice from the Office, all applicants or registrants shall file a declaration of actual use of the mark with evidence to that effect within three years, without possibility of extension, from the filing date of the application. Otherwise, the application shall be refused or the mark shall be removed from the register by the Director motu proprio."

Accordingly, with the removal from Register of the mark KITCHENOMICS, there is no more reason nor basis to proceed with this case.

WHEREFORE, premises considered, the instant petition is hereby **DISMISSED**.

Let the filewrapper of Trademark Registration No. 4-2003-011038 be returned, together with a copy of this Order to the Bureau of Trademarks (BOT) for information and appropriate action.

SO ORDERED.

Taguig City, **16 DEC 2016**


Atty. ADORACION U. ZARE
Adjudication Officer, Bureau of Legal Affairs