



**JAGUAR LAND ROVER LIMITED,**  
*Opposer,*

**-versus-**

**RAMAS-UYPITCHING SONS, INC.,**  
*Respondent-Applicant.*

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**IPC No. 14-2014-00503**  
Opposition to:  
Appln. Serial No. 4-2014-010662  
Date Filed: 27 August 2014

**TM: RANGO**

X-----X

**NOTICE OF DECISION**

**QUISUMBING TORRES**

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**GREETINGS:**

Please be informed that Decision No. 2016 - 538 dated 23 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, 11 January 2017.

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

<b>JAGUAR LAND ROVER LIMITED,</b>	} <b>IPC NO. 14-2014-00503</b>
Opposer,	} Opposition to:
	}
-versus-	} Appln. Ser. No. 4-2014-010662
	} Date Filed: 27 August 2014
<b>RAMAS-UYPITCHING SONS, INC.,</b>	} Trademark: "RANGO"
Respondent-Applicant.	}
	}
x-----x	} Decision No. 2016-538

**DECISION**

JAGUAR LAND ROVER LIMITED, (Opposer)<sup>1</sup> filed an opposition to Trademark Application Serial No. 4-2014-010662. The application, filed by RAMAS-UYPITCHING SONS, INC. (Respondent-Applicant)<sup>2</sup>, covers the mark "RANGO", for use on "Motorcycles" under Class 12; and "Transportation" under Class 39 of the International Classification of Goods<sup>3</sup>.

The Opposer anchors its opposition on the following grounds:

"4.1. The Respondent-Applicant's RANGO trademark is confusingly similar to the Opposer's series of RANGE trademarks, which are used on various goods manufactured and sold by the Opposer, including goods under Class 12. The Respondent-Applicant's application for the trademark RANGO, which has a filing date of (i.e. 27 August 2014) later than the filing dates of the Opposer's RANGE trademarks, cannot be registered by virtue of Section 123.1 (d) of the Republic Act No. 8293 ('IP Code')."

"4.2. The Respondent-Applicant's application for the trademark RANGO, which is identical to or confusingly similar with, well-known RANGE trademarks of the Opposer and issued on identical and similar goods as that of Opposer's marks, cannot be registered by virtue of the prescription in Section 123.1 ( e ) of the IP Code and relevant jurisprudence. The Opposer's RANGE trademarks are internationally and locally well-known and are entitled to protection, specifically against the potential dilution that may be caused by Respondent-Applicant's unauthorized registration and use of the mark RANGO."

The Opposer alleges that it is a world-renowned car manufacturer whose use of the RANGE trademark for its RANGE ROVER motor vehicles, parts, accessories and date back to 1970. In the Philippines, its mark was registered on 22 May 1980. The

<sup>1</sup> A corporation organized and existing under the laws of Switzerland with address at Poststrasse 3, 6341 Baar, Switzerland

<sup>2</sup> with address at Phil RUSI Building, Sta. Rosa Street, Dumaguete City

<sup>3</sup> The Nice Classification of Goods and Services is for registering trademarks and service marks based on multilateral treaty administered by the WIPO, called the Nice Agreement Concerning the International Classification of Goods and Services for Registration of Marks concluded in 1957.

Opposer argues that the Respondent-Applicant copied almost all the elements of its mark, RANGE, such that, Respondent-Applicant's resulting mark is conceptually, phonetically and aurally similar to its mark. The Opposer believes that when Respondent-Applicant's RANGO is used on similar or related goods, it may suggest a false connection with the Opposer and the ordinary purchaser may be deceived or misled.

To support its opposition, the Opposer submitted as evidence the Notice of Opposition; Special Power of Attorney; Certificate of Registration No. 41997028302 for the mark "RANGE ROVER"; Annual report of Jaguar Land Rover Limited; Affidavit of Carlo E. Arbaques; advertisements and promotional materials; photographs of Range Rover vehicles; and copies of trademark registrations of "RANGE ROVER".<sup>4</sup>

The Respondent-Applicant filed its Answer on 14 May 2014, alleging that it is a local company which markets and sells, under its RUSI mark, affordable motorcycles, including parts and accessories. It has been in the motorcycle industry since the 1950s. According to the Respondent-Applicant, as its business grew, it marketed its different motorcycle models under familiar names with name recall. Thus, inspired by Hollywood movies, it named one of its motorcycle brand as "RUSI Gremlin". Respondent-Applicant contends when comparing the marks, no confusing similarity would result in the application of both the dominancy and holistic tests because the marks are not the same, and are seen with the mark RUSI. The Respondent-Applicant also points out that the goods involved are not inexpensive household items.

To support its Answer, the Respondent-Applicant submitted as evidence a Secretary's Certificate; Copy of Certificate of Registration 420140010663 for the mark "GREMLIN"; Affidavit of Nikki J. Ramas-Uypitching; photographs of motorcycle with the marks RUSI, RANGO.<sup>5</sup>

The Preliminary Conference was held on 4 October 2016 where both parties were directed to file their respective position papers. The Opposer and the Respondent-Applicant filed their respective position papers on 14 October 2016.

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

Section 123.1 (d) and Section 123.1 (f) of the Intellectual Property Code ("IP Code"), states 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

<sup>4</sup> Exhibits "A" to "I", inclusive of submarkings

<sup>5</sup> Exhibit "1" – "4" inclusive of submarkings

- (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

Records show that at the time Respondent-Applicant applied for registration of the mark RANGO on 27 August 2014, the Opposer already registered the mark RANGER, ROVER on 22 May 1980 for goods under Class 12, namely: "land motor vehicles and parts thereof. "

The question is: Are the competing marks identical or closely resembling each other such that confusion or mistake is likely to occur?

**RANGE ROVER**

**RANGO**

Opposer's mark

Respondent-Applicant's mark

The marks identical with respect to their use of the letters "RANG". Such similarity, however, is insufficient to sustain a finding of confusing similarity. The Opposer's mark, includes the word ROVER<sup>6</sup> while the Respondent-Applicant's products<sup>7</sup> as seen in the pictures submitted, include the mark "RUSI". More importantly, although the marks are similar in the use of the letters "R-A-N-G", when pronounced, the marks are phonetically different. Opposer's mark is pronounced as one syllable while the Respondent-Applicant's mark is a two-syllable word. The "a" in Opposer's mark is a long vowel, as in the word, "ape", in contrast, Respondent-Applicant's RANGO is pronounced with a short vowel sound, as in the word "at". Moreover, the letter "G" in the marks are pronounced differently. In Opposer's mark, the "g" is pronounced as in the words, "beige" or "ginger" while Respondent-Applicant's mark's letter "g" is pronounced as in the words, "gold" or "get".

In the case of Taiwan Kolin Corporation, Ltd. v. Kolin Electronics, Co., Inc.<sup>8</sup>, the Supreme Court held:

While both marks refer to the word 'KOLIN' written in upper case letters and in bold font, the Court at once notes the distinct visual and aural differences between them: Kolin Electronics' mark is italicized and colored black while that of Taiwan Kolin is white in pantone red color background. The differing features between the two, though they may appear minimal, are sufficient to distinguish one brand from the other.

Visually and aurally, the marks are not confusingly similar. Also, the ordinary buyer must be credited with a modicum of intelligence in making purchases. Again, in Taiwan Kolin<sup>9</sup>, the Supreme Court held:

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<sup>6</sup> Exhibit "C"

<sup>7</sup> Exhibit "4"

<sup>8</sup> G.R. No. 209843, March 25, 2015

It cannot be stressed enough that the products involved in the case at bar are, generally speaking, various kinds of electronic products. These are not ordinary household items, catsup, soy sauce or soap which are of minimal cost. The products of the contending parties are relatively luxury items not easily considered affordable. Accordingly, 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. xxx”

In the instant case, a customer intending to buy Respondent-Applicant’s motorcycles, would mull over their purchase, as they are not ordinary household items. They would not immediately form a connection that the goods are sponsored by or affiliated with that of the Opposer’s RANGE ROVER products, simply because the mark of Respondent-Applicant uses the prefix/letters “RANG”. The mark RANGO was conceptualized from names of Hollywood characters. In fact, the Respondent-Applicant admits to having one of its products as “Gremlin”.<sup>10</sup> Thus, there is no likelihood of confusion with the contemporaneous use of the contending marks.

**WHEREFORE**, premises considered, the instant Opposition to Trademark Application No. 4-2014-010662 is hereby **DISMISSED**. Let the filewrapper of the subject trademark be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

**SO ORDERED.**

Taguig City, 23 DEC 2016



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

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<sup>10</sup> Exhibits “2” and “3”