



MAN TRUCK & BUS AG,	}	IPC No. 14-2016-00546
Opposer,	}	Opposition to:
	}	
-versus-	}	Application No. 4-2016-00000616
	}	Date Filed: 19 January 2016
HALLA HOLDINGS CORPORATION,	}	
Respondent-Applicant.	}	Trademark: MANDO
x-----x		Order No. 2017 - <u>04</u> (D)

ORDER

MAN TRUCK & BUS AG (“Opposer”) filed on 29 November 2016 a Consolidated Verified Opposition to Trademark Application Nos. 4-2016-00000616, 4-2016-00000617, 4-2016-00000618. The said consolidated opposition was docketed as IPC Nos. 14-2016-00546, 14-2016-00547, 14-2016-00548.

Prior thereto, the Opposer filed on 29 September 2016 a Motion for Extension of Time to File Opposition requesting for an additional period of thirty (30) days from 29 September 2016 within which to file its Verified Opposition. In an Order No. 2016-1679 dated 14 October 2016, this Bureau granted the Opposer's motion giving the latter a period of thirty (30) days or until 29 October 2016 to file the Verified Opposition. Subsequently, the Opposer filed a Second Motion for Extension of Time to File Opposition seeking another period of thirty (30) days from 29 October 2016 within which to file the opposition. In response to the motion, an Order No. 2016-1810 dated 09 November 2016 was issued by this Bureau giving the Opposer a second extension of thirty (30) days from 29 October 2016 or until 28 November 2016 within which to file the Verified Opposition.

The Opposer filed its Consolidated Verified Opposition only on 29 November 2016.

Section 134 of R. A. No. 8293, otherwise known as the Intellectual Property Code of the Philippines (“IP Code”) provides that:

Sec. 134. Opposition. Any person who believes that he would be damaged by the registration of a mark may, upon payment of the required fee and within thirty (30) days after the publication referred to in Subsection 133.2, file with the Office an opposition to the application. Such opposition shall be in writing and verified by the oppositor or by any person on his behalf who knows the facts, and shall specify the grounds on which it is based and include a statement of the facts relied upon. Copies of certificates of registration of marks registered in other countries or other supporting documents mentioned in the opposition shall be filed therewith, together with the translation in English, if not in the English language. For good cause shown and upon payment of the

required surcharge, the time for filing an opposition may be extended by the Director of Legal Affairs, who shall notify the applicant of such extension. The Regulations shall fix the maximum period of time within which to file the opposition.

Corollarily thereto, Rule 2, Section 12 of the IPOPHL Memorandum Circular No. 16-007, *Revised Rules and Regulations on Inter Partes Proceedings*, provides the period for filing the opposition, to wit:

"Section 2. Period to file opposition. - The verified notice of opposition must be filed within 30 days from the date of the publication of the trademark application in the IPOPHL "Gazette". Upon proper motion anchored on meritorious grounds which must be expressly indicated in the motion, and the payment of the filing fee for opposition and other applicable fees, the Bureau may grant an additional period of 30 days within which to file the opposition. A second motion for extension of 30 days may also be granted on meritorious grounds and upon payment of the applicable fees. A third and last motion for extension of 30 days may be granted on compelling grounds and upon payment of the applicable fees; Provided, that in no case will the filing of the opposition exceed one hundred and twenty (120) days from the date of the aforementioned publication; Provided, further, that if the last day for filing of the verified opposition or motion for extension falls on a Saturday, Sunday, holiday, non-working day or on a day when the Office or the Bureau is closed for business as may be declared by the Director General, the filing must be done the next succeeding working day."

Since the subject trademark application was published for opposition on 30 August 2016, the first motion for extension of thirty (30) days commences from 29 September 2016 or until 29 October 2016. The second extension of thirty (30) days should be from 29 October 2016 or until 28 November 2016, instead of until 29 November 2016 as prayed for in the Opposer's second motion for extension.

In this regard, Rule 2, Section 8 (b) of Office Order No. 99, series of 2011, provides that:

"Section 8. Action on the Notice of Opposition or Motion for Extension to File Notice of Opposition and Petition. - x x x (b) The notice of opposition or petition may be dismissed outright and/or motu proprio for having been filed out of time, due to lack of jurisdiction, and/or failure to state a cause of action. Likewise, a motion for extension of time to file notice of opposition shall be denied outright if the opposer fails to state meritorious grounds."

The filing, therefore, of the Opposer's Consolidated Verified Opposition beyond the extended period or on 29 November 2016 warrants the dismissal of the opposition.

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WHEREFORE, premises considered, the instant opposition is hereby **DISMISSED**. Let the filewrapper of Trademark Application No. 4-2016-00000616 be returned, together with a copy of this Order, to the Bureau of Trademarks for information and appropriate action.

SO ORDERED.

Taguig City, **12 JAN 2017**

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

Copy furnished:

SIGUION REYNA MONTECILLO & ONGSIAKO

Counsel for Opposer

4th & 6th Floors Citibank Center

8741 Paseo de Roxas, Makati City

OFFICE OF BAGAY-VILLAMOR & FABIOSA

Respondent-Applicant's Representative

Unit 2013 Strata 100 Building

Don Francisco Ortigas Jr. Street

Ortigas Center, Brgy. San Antonio

Pasig City 1605, Metro Manila