



SSE IP, LLC,	}	IPC No. 14-2014-00236
<i>Opposer,</i>	}	Opposition to:
	}	
- versus -	}	Appln. No. 4-2013-00502872
	}	Date Filed: 04 October 2013
Y-FI BUSINESS SOLUTIONS, INC.,	}	Trademark: SHAKE SHACK
<i>Respondent-Applicant.</i>	}	BURGERS
x-----x		Order No. 2017- 77 (D)

ORDER

SSE IP, LLC (“Opposer”) filed on 11 July 2014 an opposition to Trademark Application Serial No. 4-2013-00502872. The application, filed by Y-FI BUSINESS SOLUTIONS, INC., (“Respondent-Applicant”), covers the mark “SHAKE SHACK BURGERS” for use on goods under Class 43.

This Bureau issued a Notice to Answer and served a copy thereof upon the Respondent-Applicant on 8 August 2014. The Respondent-Applicant filed its Verified Answer on 3 November 2014.

In compliance to Office Order No. 154, s. 2010 (“Rules of Procedure for IPO Mediation Proceedings”) and Office Order No. 197, s. 2010 (“Mechanics for IPO Mediation Settlement Period”), this Bureau issued on 5 November 2014 Order No. 2014-165 referring the case to mediation.

On 14 August 2015, the ADR Services of this Bureau submitted a Mediation Report indicating an unsuccessful mediation of the instant case.

On 10 March 2017, the Opposer filed a Manifestation stating that Respondent-Applicant failed to file the mandatory 3rd year Declaration of Actual Use (DAU) in connection with the opposed mark under Application No. 4-2013-00502874. Attached to the Opposer's Manifestation is a Certification issued by the Bureau of Trademarks on 28 February 2017.

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

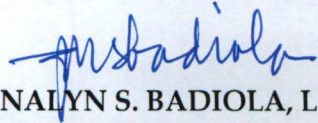
“124.2. The applicant or the registrant shall file a declaration of actual use of the mark with evidence to that effect, as prescribed by the Regulations within three (3) years from the filing of the application. Otherwise, the application shall be refused or the mark shall be removed from the Register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

Accordingly, with the refusal of the application for registration of the mark SHAKE SHACK, there is no more reason nor basis to proceed with this case.

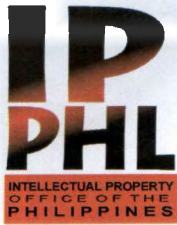
WHEREFORE, premises considered, the instant opposition case is hereby **DISMISSED**. Let the filewrapper of Trademark Registration No. 4-2013-00502872 be returned, together with a copy of this Order to the Bureau of Trademarks (BOT) for information and appropriate action.

SO ORDERED.

Taguig City, 20 March 2017.



Atty. GINALYN S. BADIOLA, LL.M.
Adjudication Officer, Bureau of Legal Affairs



SSE IP, LLC,
Opposer,

-versus-

Y-FI BUSINESS SOLUTIONS, INC.,
Respondent- Applicant.

X-----X

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} **IPC No. 14-2014-00236**
} Opposition to:
} Appln. Serial No. 4-2013-00502872
} Date Filed: 04 October 2013
} **TM: SHAKE SHACK BURGERS**

NOTICE OF ORDER

FEDERIS & ASSOCIATES LAW OFFICES
Counsel for Opposer
2004 and 2005 88 Corporate Center
141 Valero cor. Sedenoe Sts., Salcedo Village
Makati City


Atty. JOSE VOLTAIRE BAUTISTA
Counsel for Respondent-Applicant
c/o FVSC Office
G/F Bonifacio Technology Center
31st St. cor. 2nd Avenue
Bonifacio Global City, Taguig City

GREETINGS:

Please be informed that Order No. 2017 - 77 (D) dated March 20, 2017 (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 final order to the Director of the Bureau of Legal Affairs within ten (10) days after receipt of the final order together with the payment of applicable fees.

Taguig City, March 20, 2017.


MARILYN F. RETUAL
IPRS IV
Bureau of Legal Affairs