

FEINA D. WANG,
Opposer,

-versus-

R-MAX GEN. TRADING PHILS., INC.,
Respondent- Applicant.

X-----X

} **IPC No. 14-2017-00058**
} Opposition to:
} Appln.Serial No. 4-2016-011728
} Date Filed: 27 September 2016
} **TM: "R-MAX"**

NOTICE OF ORDER

SARMIENTO TAMAYO & BULAWAN LAW OFFICES

Counsel for the Opposer
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2600 Roxas Boulevard cor. P. Ocampo St.
Malate, Manila

R-MAX GEN. TRADING PHILS., INC.

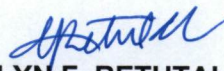
Respondent-Applicant
No. 532 Tomas Mapua corner Espelita
Brgy. 298, Sta Cruz, Manila

GREETINGS:

Please be informed that Order No. 2017 – 39 (D) dated February 22, 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 Office of the Director General within thirty (30) days after receipt of the final order together with the payment of applicable fees.

Taguig City, February 22, 2017.


MARILYN F. RETUTAL
IPRS IV
Bureau of Legal Affairs

FEINA D. WANG,	}	IPC No. 14-2017-00058
Opposer,	}	Opposition to:
	}	
-versus-	}	Application No. 4-2016-011728
	}	Date Filed: 27 September 2016
R-MAX GEN. TRADING	}	
PHILS., INC.,	}	Trademark: R-MAX
Respondent-Applicant.	}	
x-----x		Order No. 2017 - <u>39</u> (D)

ORDER

FEINA D. WANG ("Opposer") filed on 13 February 2017 a Verified Opposition to Trademark Application No. 4-2016-011728.

The Verified Opposition failed to indicate the publication date of the subject trademark application for purposes of filing the instant opposition. However, upon verification from the records and the trademarks search database, it is indicated that the status of the trademark R-MAX bearing Application Serial No. 4-2016-011728 is still "*in verification of publication conditions*".

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 opposition, to wit:

SECTION 12. *Rule 7, Section 2 is hereby amended to read as follows:*

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. [Emphasis supplied]

The above-quoted provision expressly provide that an opposition to trademark application may be filed from the time the mark sought to be opposed has been published for opposition in the IPOPHL "Gazette". Thus, considering that the subject trademark application has not yet been published for opposition and is still in verification of publication conditions with the Bureau of Trademarks, there is no factual or legal basis for the Opposer to file the instant opposition.


Rule 2, Section 8 (b) of Office Order No. 99, s. 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.

WHEREFORE, premises considered, the instant opposition case is hereby **DISMISSED**.

SO ORDERED.

Taguig City, **22 FEB 2017**


Atty. **NATHANIEL S. AREVALO**
Director IV, Bureau of Legal Affairs