

**CAI YAO HUANG,**  
*Petitioner,*

**-versus-**

**QUI LIANG CHEN,**  
*Respondent-Registrant.*

X-----X

**IPC No. 14-2013-00114**  
Cancellation of:  
Reg. No. 4-2008-007736  
Date Issued: 16 February 2009

**TM: EXTRA HEAVY DUTY  
KIMPOWER & DEVICE**

**NOTICE OF ORDER**

**FELIX-MAGBANUA & MELLA LAW OFFICES**

*Counsel for Petitioner*  
Unit 1106, Prestige Tower  
F. Ortigas, Jr. Road, Ortigas Center  
Pasig City

**R & S LAW OFFICES**

*Counsel for Respondent- Registrant*  
Unit 1103, Manila Luxury Condominium  
Pearl Drive corner Goldloop Street  
Ortigas Center, 1605 Pasig City

**GREETINGS:**

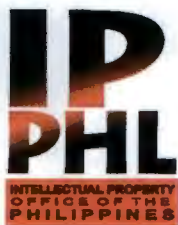
Please be informed that Order No. 2017 - 175 (D) dated 07 August 2017 (copy enclosed) was promulgated in the above entitled case.

Pursuant to Section 2, Rule 9 of the IPOPHEL 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, 07 August 2017.

**MARILYN F. RETUTAL**  
IPRS IV

Bureau of Legal Affairs



CAI YAO HUANG,	}	IPC No. 14-2013-00114
<i>Petitioner,</i>	}	Cancellation of:
	}	
- versus -	}	Reg. No. 4-2008-007736
	}	Date Filed: 16 February 2009
QUI LIANG CHEN,	}	Trademark: EXTRA HEAVY DUTY
<i>Respondent-Registrant.</i>	}	<b>KIMPOWER &amp; DEVICE</b>
-----x		Order No. 2017- 175 (D)

**ORDER**

CAI YAO HUANG ("Petitioner") filed on 21 March 2013 a petition for cancellation of Trademark Application Serial No. 4-2008-007736. The registration issued on 16 February 2009 in favor of QUI LIANG CHEN ("Respondent-Registrant") covers the mark EXTRA HEAVY DUTY KIMPOWER & DEVICE for use on goods under Classes 9 and 11.

This Bureau issued a Notice to Answer and served a copy thereof to Respondent-Registrant on 8 April 2013. The Respondent-Registrant failed to timely file his Answer. Thus, the case was submitted for decision.

However, the records of the Intellectual Property Office of the Philippines, in particular the Trademarks Registry would show that Reg. No. 4-2008-007736 for the mark EXTRA HEAVY DUTY KIMPOWER & DEVICE is removed from Register for non-filing of 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."

Accordingly, with the removal from Register of the registration of the mark EXTRA HEAVY DUTY KIMPOWER & DEVICE, there is no more reason nor basis to proceed with this case.

WHEREFORE, premises considered, the instant petition for cancellation is hereby DISMISSED. Let the filewrapper of Trademark Registration No. 4-2008-007736 be returned, together with a copy of this Order to the Bureau of Trademarks (BOT) for information and appropriate action.

SO ORDERED.

Taguig City, 07 AUG 2017

*[Signature]*  
Atty. GINALYN S. BADIOLA  
Adjudication Officer, Bureau of Legal Affairs