

**JOLLIBEE FOODS CORPORATION,**  
Opposer,

**-versus-**

**ALDRTZ CORPORATION,**  
Respondent- Applicant.

X-----X

**IPC No. 14-2015-00114**  
Opposition to:  
Appln. Serial No. 4-2014-502825  
Date Filed: 01 July 2014  
**TM: "JOLLYGOAT"**

**NOTICE OF DECISION**

**BETITA CABILAO CASUELA SARMIENTO**

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Mardigal Business Park  
Ayala Alabang, Muntinlupa City 1780

**ALDRTZ CORPORATION**

Respondent-Applicant  
No. 23 Lacson Extension corner Alijis Road  
Barangay Singcang-Airport  
Bacolod City 6100, Negros Occidental

**GREETINGS:**

Please be informed that Decision No. 2017 - 149 dated April 27, 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 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, May 02, 2017.

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

**JOLLIBEE FOODS CORPORATION,**  
Opposer,

-versus-

**ALDRTZ CORPORATION,**  
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IPC No. 14-2015-00114

Opposition to Trademark  
Application No. 4-2014-502825  
Date Filed: 01 July 2014  
Trademark: "JOLLYGOAT"

Decision No. 2017- 149

### DECISION

Jollibee Foods Corporation<sup>1</sup> ("Opposer") filed an opposition to Application No. 4-2014-502825. The contested application, filed by Aldrtz Corporation<sup>2</sup> ("Respondent-Applicant"), covers the mark "JOLLYGOAT" for use on "*advertising, print, radio and tv marketing*" and "*food and beverage services, fastfood, restaurant*" under Class 35 and 43, respectively, of the International Classification of Goods<sup>3</sup>.

The Opposer anchors its opposition on subparagraphs (d), (e) and (f) of Section 123 of the Republic Act No. 8293, also known as the Intellectual Property Code of the Philippines ("IP Code"). It claims, among others, that it is the owner and first user of "JOLLIBEE" and "JOLLY" marks, which are also applied and/or registered for Classes 29, 30, 32, 35 and 43. It contends that the Respondent-Applicant's mark "JOLLYGOAT" is confusingly similar to its "JOLLIBEE" marks. In support of its opposition, the Opposer submitted the original notarized affidavit of Atty. Sheilah Marie P. Tomarong-Cañabano, with annexes, and the original restaurant menu items and paper bag showing the "JOLLIBEE" and "JOLLY" marks.<sup>4</sup>

This Bureau issued a Notice to Answer and furnished a copy thereof upon the Respondent-Applicant on 16 June 2015. The latter, however, did not file an Answer. On 06 November 2015, the Adjudication Officer issued Order No. 2015-1664 declaring the Respondent-Applicant in default and the case submitted for decision.

The issue to be resolved is whether the trademark "JOLLYGOAT" should be allowed registration.

<sup>1</sup>A corporation organized under the laws of the Philippines with address at 7<sup>th</sup> Floor, Jollibee Plaza Building, Emerald Avenue, Ortigas Center, Pasig City.

<sup>2</sup>With address at No. 23 Lacson Extension-corner Alijis Road, Barangay Singcang-Airport, Bacolod City 6100, Negros Occidental, Philippines.

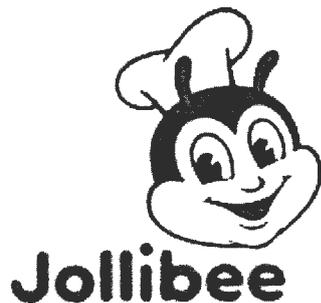
<sup>3</sup>The Nice Classification is a classification of goods and services for the purpose of registering trademark and services marks, based on the multilateral treaty administered by the World Intellectual Property Organization. The treaty is called the Nice Agreement Concerning the International Classification of Goods and Services for the Purpose of the Registration of Marks concluded in 1957.

<sup>4</sup>Marked as Exhibits "B" and "C".

Records reveal that the Opposer has a valid and existing registration of its trademark "JOLLIBEE", which certificate was issued as early as 24 September 2005. The Opposer also has several other registrations under its name including but not limited to: "JOLLIBEE BREAKFAST JOYS", "JOLLIBEE CHAMP", "JOLIBEE GRILLED PORK TENDERS", "JOLLY KRUNCHY TWIRL", "JOLLY CRISPY FRIES", "JOLLY CHEEZY FRIES", "JOLLY ZERTS" and "JOLLY HOTDOG". On the other hand, the Respondent-Applicant only filed the contested application on 01 July 2014.

But the marks, as reproduced below, confusingly similar?

*Opposer's marks include:*



**JOLLIBEE**

**Jolly Hotdog**

**JOLLY CRISPY FRIES**

*Respondent-Applicant's mark:*

**JOLLYGOAT**

The competing marks commonly appropriate the word "JOLLY". The said word, however, is a common English word and hence, what will determine whether the marks are indeed confusingly similar are the words and/or device that accompany the same. In fact, the Trademark Registry shows many other registered marks belonging to different entities using the term for goods belonging to the same

classes as the Opposer's. Apparently, the word "JOLLY" alone is not highly distinctive. In this case, the "JOLLYGOAT" is distinguishable from any of the Opposer's "JOLLY" and "JOLLIBEE" marks. The addition of the word "GOAT" in the Respondent-Applicant's mark differentiates the same from any of that of the Opposer's whether in spelling, sound or impression.

Noteworthy, the Opposer's goods and services can only be purchased and availed of in its restaurants and fast food chains. In view thereof, it is highly improbable that the consumers will be deceived, or at least confused, that "JOLLYGOAT" products are the same or are sourced from the Opposer as they flow in different channels of trade.

Finally, it is emphasized that the essence of trademark registration is to give protection to the owners of trademarks. The function of a trademark is to point out distinctly the origin or ownership of the goods to which it is affixed; to secure to him who has been instrumental in bringing into the market a superior article of merchandise, the fruit of his industry and skill; to assure the public that they are procuring the genuine article; to prevent fraud and imposition; and to protect the manufacturer against substitution and sale of an inferior and different article as his product.<sup>5</sup> It is found that Respondent-Applicant sufficiently met these requirements.

**WHEREFORE**, premises considered, the instant opposition is hereby **DISMISSED**. Let the filewrapper of Trademark Application No. 4-2014-502825 be returned, together with a copy of this Decision, to the Bureau of Trademarks for information and appropriate action.

**SO ORDERED.**

Taguig City, 27 APR 2017

  
**ATTY. Z'SA MAY B. SUBEJANO-PE LIM**  
Adjudication Officer  
Bureau of Legal Affairs

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<sup>5</sup> Pribhdas J. Mirpuri vs. Court of Appeals, G.R. No. 114508, 19 November 1999.